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# **INCOME-TAX PRACTITIONER'S MANUAL**

**BEING**

**A Compendium of all the Acts, Rules, Forms and Notifications  
relating to Income-Tax and Excess Profits Tax as  
amended up to date**

**BY**

**S. K. AIYAR, B.A., B.L.,**  
*Advocate, Madras,*

***SECOND EDITION***

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## **PREFACE TO THE SECOND EDITION**

This book is designed to meet a long-felt want. Its aim is to provide the Income-Tax Practitioner with a compendious and up-to-date manual in the pages of which he will find all the Acts, Rules, Forms and Notifications he has to be familiar with in the course of his everyday practice. The absence of such a book is being all the more keenly felt because of the frequent and far-reaching changes in the Income-Tax and Excess Profits Tax Laws during recent months which have rendered the existing books on the subject more or less out of date.

In compiling this book, I have taken special care to incorporate all the amendments made from time to time in the Income-Tax and Excess Profits Tax Acts and the Rules thereunder upto date. It is hoped that the care I have bestowed in the preparation of this book will serve to lighten the labours of all those who are concerned in the practice or administration of the Income-Tax and Excess Profits Tax Laws in this country.

**S. K. AIYAR.**





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*(As modified upto date.)*

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# INCOME-TAX PRACTITIONER'S MANUAL

## ACT No. XI OF 1922.

[5th March, 1922.]

**An Act to consolidate and amend the law relating to income-tax and Super-tax.**

[As amended up-to-date]

**WHEREAS** it is expedient to consolidate and amend the law relating to Income-tax and Super-tax ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Indian Income-tax Act, 1922.

<sup>2</sup>[(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas and applies also, within the Indian States and the tribal areas, to British subjects who are in the service of the Crown or of a local authority established in the exercise of the powers of the Crown Representative or the Central Government in that behalf, and to all other servants of the Crown in the said States and areas.]

(3) It shall come into force on the first day of April, 1922.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “agricultural income,” means—

(a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in British India or subject to a local rate, assessed and collected by <sup>3</sup>[officers of the Crown] as such ;

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

1. For Statement of Objects and Reasons, see Gazette of India 1921, Pt. V, p. 159 ; and for Report of Joint Committee, see *ibid.*, 1922, Pt. V, p. 31.

This Act has been declared in force in the District of Khondmals by s. 3 and Sch. of the Khondmals Laws Regulation, 1936 (4 of 1936) and in the district of Angul by s. 3 and Sch. of the Angul Laws of Regulations, 1936 (5 of 1936) and in Berar by Act IV of 1941.

The Act has been applied with certain exceptions to persons in the Chittagong Hill-tracts, by s. 2 of the Chittagong Hill-tracts Laws Regulation, 1937 (Ber. Reg. 2 of 1937).

2. This sub-section was substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. These words were substituted for the words “officers of Government,” *ibid.*



- (iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii) ;
- (c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house, or as a store-house or other out-building;

(2) "assessee" means a person by whom Income-tax is payable ;

(3) <sup>1</sup>["Appellate] Assistant Commissioner" means a person appointed to be an <sup>1</sup>[Appellate] Assistant Commissioner of Income-tax under section 5 ;

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture ;

<sup>2</sup>[(4A) "the Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 ;]

(5) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5 :

<sup>3</sup>[(6)] "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession or of a law of an Indian State, and includes any foreign association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act ;]

<sup>4</sup>[(6A)] "dividend" includes—

(a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company ;

(b) any distribution by a company of debentures or debenture-stock, to the extent to which the company possesses accumulated profits, whether capitalised or not ;

1. This word was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

2. This clause was inserted by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

3. This clause was substituted by s. 2 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

4. This clause was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

(c) any distribution made to the shareholders of a company out of accumulated profits of the company on the liquidation of the company :

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included ; and

(d) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not :

Provided that 'dividend' does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (c) or (d).

*Explanation* —The words 'accumulated profits', wherever they occur in this clause, shall not include 'capital profit' ;]

<sup>1</sup>[<sup>2</sup>(6B)] "firm" "partner" and "partnership" have the same meanings respectively as in the <sup>3</sup>[Indian Partnership Act 1932]: '[provided that the expression 'partner' includes any person who being a minor has been admitted to the benefits of partnership ;]

<sup>4</sup>[(6C) "income" includes anything included 'dividend' as defined in clause (6A) and anything which under *Explanation 2* to sub-section (1) of section 7 is a profit received in lieu of salary for the purposes of that sub-section and any sum deemed to be profits under the second proviso to clause (vii) of sub-section (2) of section 10 and the profits of any business of insurance carried on by a <sup>6</sup>[mutual insurance association] computed in accordance with Rule 9 in the Schedule ;

(6D) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under section 5;]

(7) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 5 ;

(8) "Magistrate" means Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially

1 This clause was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

2 The original clause (6A) was relettered (6B) by section 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

3 These words and figures were substituted for the words and figures "Indian Contract Act, 1872," *ibid*.

4 These words were added, *ibid*.

5 Clauses (6C) and (6D) were inserted, *ibid*.

6 These words substituted for the words "mutual insurance company", by section 2 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941) This amendment is consequential on the substitution of the word "association" for the word "company" in Rule 9 of the Schedule by section 13 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

empowered by <sup>1</sup>[the Central Government] to try offences against this Act ;

(9) "person" includes a Hindu undivided family <sup>2</sup>[and a local authority ;]

(10) "prescribed" means prescribed by rules made under this Act ;

(11) "previous year" means <sup>2</sup>[in respect of any separate source of income, profits and gains]—

(a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made; or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up :

<sup>3</sup>[Provided that where an assessee has once been assessed in respect of a particular source of income profits, and gains, he shall not in respect of that source exercise this option so as to vary the meaning of the expression 'previous year' as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income tax Officer may think fit ; or]

(b) in the case of any person, business or company or class of person, business or company, such period as may be determined by the <sup>4</sup>[Central Board of Revenue] or by such authority as the Board may authorise in this behalf ; <sup>5</sup>[or

(c) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under sub-clause (b), or, if the accounts of the assessee are made up to some other date than the 31st day of March and the case is not one for which a period has been determined by the Central Board of Revenue under sub-clause (e), then at the option of the assessee, the period from the date of the setting up of the business, profession or vocation to such other date :

<sup>1</sup> These words were substituted for the words "the Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup> These words were inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>3</sup> This proviso was substituted, *ibid.*

<sup>4</sup> These words were substituted for the words "Board of Indian Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

<sup>5</sup> The word "or" and sub-clause (c) were added by s. 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

Provided that when such other date does not fall between the setting up of the business, profession or vocation and the next following 31st day of March, it shall be deemed that there is no previous year ; and

when the assessee is a partner in a firm, 'previous year' in respect of his share of the income, profits and gains of the firm means the previous year as determined for the assessment of the income profits and gains of the firm ;]

(12) "principal officer," used with reference to a local authority or a company or any other public body or <sup>1</sup>[any] association, means—

(a) the secretary, treasurer,<sup>\*</sup> manager or agent of the authority, company, body or association, or

(b) any person connected with the authority, company, body or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof ;

(13) "public servant" has the same meaning as in the Indian Penal Code ;

<sup>2</sup>[(14) "registered firm" means a firm registered under the provisions of section 26A;]

(15) "total income" means total amount of income profits and gains <sup>3</sup>[referred to in sub-section (1) of section 4] computed in the manner laid down in <sup>4</sup>[this Act], and

<sup>5</sup>["total world income" includes all income, profits and gains wherever accruing or arising except income to which, under the provisions of sub-section (3) of section 4, this Act does not apply ; and]

(16) "unregistered firm" means a firm which is not a registered firm.

<sup>1</sup> This word was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

<sup>2</sup> This clause was substituted by s. 2 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

<sup>3</sup> These words were substituted for the words "from all sources to which this Act applies" by s. 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>4</sup> These words were substituted for the word and figures "section 16" *ibid.*

<sup>5</sup> These words were added by s. 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

## CHAPTER I.

3. Where any <sup>1</sup>[Act of the Central Legislature] enacts that income-tax shall be charged for any year at any rate or rates<sup>2</sup> \* \* tax at that rate or those rates, shall be charged for that year in accordance with and subject to the provisions of, this Act in respect of <sup>3</sup>[the total income] of the previous year of every <sup>4</sup>[individual, Hindu undivided family, <sup>5</sup>[company and local authority and of every firm, and other association of persons or the partners of the firm or members of the association individually ] ].

4. <sup>6</sup>[(1) Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which—

- (a) are received or are deemed to be received in British India in such year by or on behalf of such person, or
- (b) if such person is resident in British India during such year,—
  - (i) accrue or arise or are deemed to accrue or arise to him in British India during such year, or
  - (ii) accrue or arise to him without British India during such year, or
  - (iii) having accrued or arisen to him without British India before the beginning of such year and after the 1st day of April, 1933, are brought into or received in British India by him during such year, or
- (c) if such person is not resident in British India during such year, accrue or arise or are deemed to accrue or arise to him in British India during such year :

Provided that there shall not be included in any assessment for the year ending on the 31st day of March, 1940, both the amount of the income, profits and gains referred to in sub-clause (ii) of clause (b) and the amount of the income, profits and gains referred to in sub-clause (iii) of clause (b) but only the greater of these two amounts :

<sup>1</sup> These words were substituted for the words "Act of the Indian Legislature" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup> The words "applicable to the total income of an assessee" were omitted by s. 3 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>3</sup> These words were substituted for the words "all income, profits and gains," *ibid.*

<sup>4</sup> These words were substituted for the words "individual, company, firm and Hindu undivided family" with effect from 1st April, 1923, by ss. 3 and 11 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

<sup>5</sup> These words were substituted for the words "company, firm and other association of individuals" by s. 3 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>6</sup> Sub-sections (1) and (2) were substituted by s. 4, *ibid.*

Provided further that, in the case of a person not ordinarily resident in British India, income, profits and gains which accrue or arise to him without British India shall not be so included unless they are derived from a business controlled in or a profession or vocation set up in India or unless they are brought into or received in British India by him during such year :

Provided further that if in any year the amount of income accruing or arising without British India exceeds the amount brought into British India in that year, there shall not be included in the assessment of the income of that year so much of such excess as does not exceed four thousand five hundred rupees.

*Explanation 1.*—Income, profits and gains accruing or arising without British India shall not be deemed to be received in or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in a balance sheet prepared in British India.

*Explanation 2* —Income which would be chargeable under the head 'Salaries' if payable in British India and not being pension payable without India shall be deemed to accrue or arise in British India wherever paid if it is earned in British India.

*Explanation 3.*— A dividend paid without British India shall be deemed to be income accruing and arising in British India to the extent to which it has been paid out of profits subjected to income-tax in British India.

(2) For the purposes of sub-section (1), where a husband is not resident in British India, remittances received by his wife resident in British India out of any part of his income which is not included in his total income shall be deemed to be income accruing in British India to the wife ;]

(3) <sup>1</sup>[Any income, profits or gains falling within the following classes shall not be included in the total income of the person receiving them]:

(i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto.

<sup>2</sup>[(ia) Any income derived from business carried on on behalf of a religious or charitable institution when the income is applied solely to the purposes of the institution and—

(a) the business is carried on in the course of the carrying out of a primary purpose of the institution, or

<sup>1</sup> These words were substituted for the words "This Act shall not apply to the following classes of income" by s. 4 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>2</sup> This clause was inserted, *ibid.*



- (b) the work in connection with the business is mainly carried on by beneficiaries of the institution.]
- (ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.
- (iii) The income of local authorities <sup>1</sup>[except income from a trade or business carried on by the authority so far as that income is not income arising from the supply of a commodity or service within its own jurisdictional area].
- (iv) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, <sup>2</sup>[1925], applies. <sup>3</sup>\* \* \*
- <sup>4</sup>\* \* \* \*
- (vi) Any special allowance, benefit, or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.
- (vii) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employee.
- (viii) Agricultural income.
- <sup>5</sup>[(ix) Any income received by trustees on behalf of a recognised provident fund as defined in clause (a) of section 58-A.]

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility, <sup>6</sup>[but nothing contained in clause (i), clause (ia) or clause (ii) shall operate to exempt from the provisions of this Act that part of the income of private religious trust which does not enure for the benefit of the public.]

<sup>7</sup>[(x) Any income received—

- (a) by a person accredited as representative in British India for political purposes of an Indian State or the Ruler thereof, as his remuneration from the State or Ruler for service in such capacity ;

<sup>1</sup> These words were added by s. 4 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>2</sup> These figures were substituted for the figures "1897," *ibid*.

<sup>3</sup> The words "or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is, or but for an exemption under that Act would be applicable" were omitted by s. 4 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

<sup>4</sup> Clause (v) was omitted by s. 4 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>5</sup> This clause was added by s. 2 of the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929).

<sup>6</sup> These words were added by s. 4 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>7</sup> Clauses (x) and (xi) were added by s. 3 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). This provision expands the exemptions shown as items 1 and 14 to 16B at pages 179 and 181 of the Income-tax

- (b) by a Consul General, Consul, Vice-Consul or Consular Agent of a foreign State, as remuneration from such State for service in such capacity;
- (c) by a person employed by the consulate of a foreign State, not being a British subject or the subject of an Indian State, as remuneration from such foreign State for service in such capacity;
- (d) by a Trade Commissioner or other official representative in British India of the Government of any part of the British Empire or of a foreign Government, as his official salary, if the official salary of the corresponding officials, if any, of the Central Government resident for similar purposes in the country concerned enjoy a similar exemption in that country;
- (e) by a member of the staff of a Trade Commissioner or official representative referred to in sub-clause (d), as his official salary, when such member as a subject of the country represented, and the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Central Government.
- (xi) With effect from the 2nd day of September 1939, the income chargeable under the head 'Salaries' of a Nepalese member of the Nepalese Military Force serving with His Majesty's Forces, or of any member of an Indian State Force so serving, and any other income accruing or arising without British India which is, received in or brought into British India by any such member while the Force to which he belongs is serving with His Majesty's Forces.]

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility but nothing contained in clause (i), clause (ia) or clause (ii) shall operate to exempt from the provisions of this Act that part of the income of a private religious trust which does not enure for the benefit of the public.

Residence in  
British India.

<sup>1</sup>[4A. For the purposes of this Act—

- (a) any individual is resident in British India in any year if he—
- (i) is in British India in that year for a period amounting in all to one hundred and eighty-two days or more; or

Manual (Eighth Edition) and which were made by the Central Government in the exercise of its powers under section 60 (1). The existing exemptions do not apply to official representatives of the Dominions or Foreign Governments other than Consuls and Trade Commissioners. It is now proposed to confer exemption on such representatives and their staff on the basis of reciprocity. A minor change in sub-clause (c) is the withdrawal of the existing exemption in the case of a subject of an Indian State.

Clause (xi) proposes to confer with effect from the outbreak of the war an exemption on Nepalese and Indian State Forces which have come to British India at the request of the Central Government.

<sup>1</sup> Sections 4A and 4B were inserted by s 5 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).



- (ii) maintains or has maintained for him a dwelling place in British India for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in British India for any time in that year; or
- (iii) having within the four years preceding that year been in British India for a period of or for periods amounting in all to three hundred and sixty-five days or more, is in British India for any time in that year otherwise than on an occasional or casual visit; or
- <sup>1</sup>[(iv) is in British India for any time in that year and the Income-tax Officer is satisfied that such individual having arrived in British India during that year is likely to remain in British India for not less than three years from the date of his arrival;]
- (b) a Hindu undivided family, firm or other association of persons is resident in British India unless the control and management of its affairs is situated wholly without British India; and
- (c) a company is resident in British India in any year (a) if the control and management of its affairs is situated wholly in British India in that year, or (b) if its income arising in British India in that year exceeds its income arising without British India in that year.

Ordinary  
residence.

#### 4B. For the purposes of this Act—

- (a) an individual is 'not ordinarily resident' in British India in any year if he has not been resident in British India in nine out of the ten years preceding that year or if he has not during the seven years preceding that year been in British India for a period of, or for periods amounting in all to, more than two years;
- (b) a Hindu undivided family is deemed to be ordinarily resident in British India if its manager is ordinarily resident in British India;
- (c) a company, firm or other association of persons is ordinarily resident in British India, if it is resident in British India.]

<sup>1</sup> This clause was inserted by s. 4 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). Cases of hardship have come to notice in which individuals who come to reside in India for a period of years suffer through being treated as non-residents in the year of their arrival. A similar situation arises when a resident departs from India early in the financial year. The purpose of the clause is to treat such individuals as residents.

**Note :—**Effect will not be given to this amendment in the assessment for any year before the year ending on 31-3-1943.

## CHAPTER II

## INCOME-TAX AUTHORITIES.

[5. (1) There shall be the following classes of Income-tax authorities for the purposes of this Act,

namely :—

- (a) the Central Board of Revenue,
- (b) Commissioners of Income-tax,
- (c) Assistant Commissioners of Income-tax who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,
- (d) Income-tax Officers.

(2) The Central Government may appoint a Commissioner of Income-tax for any area specified in the order of appointment, and may appoint Commissioners of Income-tax, not more than three in all; each to discharge, without reference to area, and to the exclusion of any Commissioner appointed for any area, the functions of a Commissioner in respect of any cases or classes of cases assigned to him by the Central Board of Revenue

(3) The Central Government may appoint \* \* \* \* as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers as it thinks fit.

(4) Appellate Assistant Commissioners of Income-tax shall be under the direct control of the Central Board of Revenue and shall perform their functions in respect of such persons or classes of persons <sup>3</sup>[or of such incomes or classes of income or] in respect of such areas as the Central Board of Revenue may direct, <sup>4</sup>[and, where such directions have assigned to two or more Appellate Assistant Commissioners of Income-tax, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Central Board of Revenue may make for the distribution and allocation of the work to be performed.

(5) Inspecting Assistant Commissioners of Income-tax and Income-tax Officers shall perform their functions in respect of such persons or classes of persons <sup>5</sup>[or of such incomes or classes of income or] in respect of such areas as the Commissioner of Income-tax may direct, <sup>6</sup>[and, where such directions have assigned to two or more Inspecting Assistant Commissioners of income-tax or

1 This section was substituted for the original section by s. 6 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

2. The words "for any area" were omitted by s. 3 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940) and shall have effect from 1st April, 1939.

3 These words were substituted for the words "and of such incomes or classes of income and", *ibid*, and shall have effect from 1st April, 1939.

4 These words were substituted for the words "and, where two or more Appellate Assistant Commissioners have been appointed for the same area," and shall have effect from 1st April, 1939.

5 These words were substituted for the words "and of such incomes or classes of income and" by s. 3 of the Indian Income-tax (Amendment) Act, 1940), and shall have effect from 1st April, 1939.

6 These words were substituted for the words "and, where two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers have been appointed for the same area," *ibid*, shall have effect from 1st April, 1939.

Income-tax Officers, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Commissioner of income-tax may make for the distribution and allocation of the work to be performed. The Commissioner may, with the previous approval of the Central Board of Revenue, by general or special order in writing direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Inspecting Assistant Commissioner and the Commissioner, respectively, and for the purposes of any case in respect of which such order applies references in this Act or in any rules made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively.

(6) The Central Board of Revenue may, by notification in the official Gazette, empower Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income <sup>7</sup>[or such area] as may be specified in the notification, and thereupon the functions so specified shall cease <sup>8</sup>\* \* \* to be performed in respect of the specified classes of persons or classes of income <sup>9</sup>[or area] by the other authorities appointed under sub-sections (2) and (3).

(7) Assistant Commissioners of Income-tax and Income-tax Officers shall for the purposes of this Act, be subordinate to the Commissioner of Income-tax for the area in which they perform their functions or where they perform functions assigned to them by a Commissioner of Income-tax appointed without reference to area, to that Commissioner.

The Commissioner of Income-tax may transfer any case from one Income-tax Officer subordinate to him to another, and the Central Board of Revenue may transfer any case from any one Income-tax Officer to another. Such transfer may be made at any stage of the proceedings, and shall not render necessary the reissue of any notice already issued by the Income-tax Officer from whom the case is transferred.]

(8) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue :

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.]

7 These words were substituted for the words "and for such area" by s. 3 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940) and shall have effect from 1st April, 1939.

8 The words "within the specified area" were omitted, *ibid*, with effect from 1st April, 1939.

9 These words were inserted, *ibid*, and shall have effect from 1st April, 1939.

10 This sub-section was inserted, *ibid*.

## [CHAPTER II-A.

## APPELLATE TRIBUNAL.]

<sup>2</sup>[5A. (1) The Central Government shall appoint an Appellate Tribunal consisting of not more than ten persons to exercise the functions conferred on the Appellate Tribunal by this Act.

(2) The Appellate Tribunal shall consist of an equal number of judicial members and accountant members as hereinafter defined :

<sup>3</sup>[Provided that the Tribunal shall not be deemed to be invalidly constituted merely by reason of a temporary inequality caused by the death, retirement or removal of any member.]

(3) A judicial member shall be a person who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge ; and an accountant member shall be a person who has, for a period of not less than six years, practised professionally as a Registered Accountant enrolled on the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932 :

Provided that the Central Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub-section, if it is satisfied that he has qualifications and has had adequate experience of character which render him suitable for appointment to the Tribunal.

(4) The Central Government shall appoint a judicial member of the Tribunal to be president thereof.

(5) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the president of the Tribunal.

(6) A Bench shall consist of not less than two members of the Tribunal, and shall be constituted so as to contain an equal number of judicial members and accountant members, or so that the number of members of one class does not exceed the number of members of the other class by more than one.

(7) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority ; but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

<sup>1</sup> These headings were inserted by s. 4 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

<sup>2</sup> This section was inserted by s. 85 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>3</sup> This proviso was added by s. 5 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). This provision is designed to prevent the validity of the constitution of the Appellate Tribunal being questioned when on the occurrence of a vacancy there is an inequality in the numbers of judicial and accountant members.

(8) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the '[places] at which the Benches shall hold their sittings.]

### CHAPTER III.

#### TAXABLE INCOME.

Heads of  
income  
chargeable to  
income-tax.

6. Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner herein-after appearing, namely :—

- (i) Salaries.
- (ii) Interest on securities.
- <sup>1</sup>[(iii) Income from property.
- (iv) Profits and gains of business, profession or vocation.
- (v) Income from other sources.]

7. (1) The tax shall be payable by an assessee under the head Salaries. "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits <sup>2</sup>\* \* \* \* in lieu of, or in addition to, any salary or wages, <sup>3</sup>[which are due to him from, whether paid or not, or are paid by or on behalf of, the Crown,] a local authority, a company, or any other public body or association, or <sup>4</sup>[any private employer ; and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received :

Provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties] :

Provided <sup>5</sup>[further] that the tax shall not be payable in respect of any sum <sup>6</sup>[deducted from the salary payable by or on behalf of the Crown to any individual, being a sum deducted in accordance with the conditions of his service], for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary :

4 This word was substituted for the word "place" by s. 4 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

1 These clauses were substituted for the original clauses (iii), (iv), (v) and (vi) by s. 7 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

2 The words "received by him" were omitted by s. 8, *ibid.*

3 These words were substituted for the words "which are paid by or on behalf of the Crown," *ibid.*

4 These words were substituted for the words "by or on behalf of any private employer", *ibid.*

5 This word was inserted, *ibid.*

6 These words were substituted for the words "deducted under the authority of Government from the salary of any individual" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>7</sup>[Provided further that where tax is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction] ;

<sup>8</sup>[*Explanation* <sup>9</sup>[1] —The right of a person to occupy free of rent as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section ]

<sup>10</sup>[*Explanation* 2.—A payment due to or received by an assessee from an employer or former employer or from a provident or other fund<sup>10A</sup> \* \* \* \* is to the extent to which it does not consist of contributions by the assessee or interest on such contributions a profit received in lieu of salary for the purposes of this sub-section, unless the payment is made solely as compensation for loss of employment and not by way of remuneration for past services :

Provided that nothing herein contained shall render liable to income-tax any payment from a provident fund to which the Provident Funds Act, 1925, applies, or any payment from a recognised provident fund within the meaning of Chapter IX-A if such payment is exempted from payment of income tax under the provisions of Chapter IX-A, or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established.]

(2) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India <sup>11</sup>[by or on behalf of the Crown] or by a local authority established <sup>12</sup>[in the exercise of the powers of the Crown Representative or the Central Government in that behalf.]

8 The tax shall be payable by an assessee under the head  
Interest on securities. “ Interest on securities ” in respect of the interest receivable by him on any security of the <sup>13</sup>[Central Government] or of a <sup>14</sup>[Provincial Government], or on debentures or other securities for money issued by or on behalf of a local authority or a company :

7 This proviso was inserted by s. 8 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

8 This *Explanation* was added by s. 2 of the Indian Income-tax (Amendment) Act, 1923 (15 of 1923).

9 The original *Explanation* was numbered “ 1 ” by s. 8 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

10 This *Explanation* was added, *ibid.*

10A. The words “ at or in connection with the termination of his employment whether or not the employment is then terminated or to be terminated ” were omitted by the Amendment Act of 1944.

11 These words were substituted for the words “ by Government ” by the Government of India (Adaptation of Indian Laws) Order, 1937.

12 These words were substituted for the words “ by the Governor General in Council ”, *ibid.*

13 These words were substituted for the words “ Government of India ”, *ibid.*

14 These words were substituted for the words “ Local Government ” *ibid.*



<sup>15</sup>[Provided that no income-tax shall be payable under this section by the assessee in respect of any sum deducted from such interest by way of commission by a banker realizing such interest on behalf of the assessee] <sup>16</sup>[or in respect of any interest payable on money borrowed for the purpose of investment in the securities by the assessee except interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, unless in respect of interest which is so chargeable tax has been paid or deducted under section 18, or unless there is a person in British India who may be appointed an agent under section 43 in respect of such interest] :

Provided <sup>17</sup> [further] that no income-tax shall be payable on the interest receivable on any security of the <sup>17a</sup> [Central Government] issued or declared to be income-tax free :

Provided further that the income-tax payable on the interest receivable on any security of a <sup>17b</sup> [Provincial Government] issued income-tax free shall be payable by the <sup>17b</sup> [Provincial Government].

9. (1) The tax shall be payable by an assessee <sup>18</sup>[under the head "Income from Property"] in respect of the *bona-fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of <sup>19</sup>[any business, profession or vocation carried on by him the profits of which are assessable to tax,] subject to the following allowances, namely :—

- (i) where the property is in the occupation of the owner, or where it is left to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value ;
- (ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value ;
- (iii) the amount of any annual premium paid to insure the property against risk of damage or destruction ;
- <sup>20</sup>[(iv) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge, where the property is subject to

<sup>15</sup> This proviso was inserted by s. 3 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>16</sup> These words were added by s. 9 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>17</sup> This word was inserted by s. 3 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>17a</sup> These words were substituted for the words "Government of India", by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>17b</sup> These words were substituted for the words "Local Government", *ibid.*

<sup>18</sup> These words were substituted for the words "under the head 'Property'" by s. 10 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>19</sup> These words were substituted for the words "his business", *ibid.*

<sup>20</sup> This clause was substituted by s. 10 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

an annual charge not being a capital charge, the amount of such charge ; where the property is subject to a ground rent, the amount of such ground rent ; and where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital :

Provided that no allowance shall be made in respect of any interest or annual charge payable without British India and chargeable under this Act, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest or a charge on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent for the payee in British India who may be assessed under section 43 ;]

- (v) any sums paid on account of land revenue in respect of the property ;
- (vi) in respect of collection charges, a sum not exceeding the prescribed maximum ;
- <sup>21</sup>[(vii) in respect of vacancies, that part of <sup>22</sup>[the annual value] which is proportional to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of <sup>22</sup>[the annual value] appropriate to any vacant part, which is proportional to the period during which such part is wholly unoccupied ;]

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(2) For the purposes of this section, the expression “ annual value ” shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year :

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall for the purposes of this section, be deemed not to exceed ten per cent. of the total income of the owner.

<sup>24</sup>[(3) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income.]

10. (1) The tax shall be payable by an assessee under the head **Business.** <sup>25</sup>[“ Profits and gains of business, profession or vocation ] ” in respect of the profit or gains of any <sup>26</sup>[business, profession or vocation] carried on by him.

21 This clause was substituted, *ibid.*

22 These words were substituted for the words “ the net annual value, after deducting the foregoing allowances ” by s. 5 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

23 The proviso was omitted by s. 10 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

24 This sub-section was added, *ibid.*

25 These words were substituted for the word “ Business ” by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

26 These words were substituted for the word “ business ”, *ibid.*



(2) Such profits or gains shall be computed after making the following allowances, namely :—

- (i) any rent paid for the premises in which such <sup>27</sup>[business, profession or vocation] is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the <sup>28</sup>[proportional annual value of the part] so used ;
  - (ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed ;
  - (iii) in respect of capital borrowed for the purposes of the <sup>27</sup>[business, profession or vocation,] <sup>29</sup>\* \* \* \* the amount of the interest paid :
- <sup>30</sup>[Provided that no allowance shall be made under this clause in any case for any interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent in British India who may be assessed under section 43 or, in the case of a firm, for any interest paid to a partner of the firm ;
- Explanation :—*Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause ;
- (iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the <sup>31</sup>[business, profession or vocation], the amount of any premium paid ;
  - (v) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof ;
  - (vi) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent <sup>32</sup>[, where the assets are ships other

<sup>27</sup> These words were substituted for the word "business", *ibid.*

<sup>28</sup> These words were substituted for the words "proportional part", *ibid.*

<sup>29</sup> The words "where the payment of interest thereon is not in any way dependent on the earning of profits" were omitted, *ibid.*

<sup>30</sup> This proviso was added, *ibid.*

<sup>31</sup> These words were substituted for the word "business", *ibid.*

<sup>32</sup> These words were inserted by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939) as amended by the Indian Income-tax (Amendment Act, 1940 (12 of 1940).

than ships ordinarily plying on inland waters] to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed <sup>33</sup>[and in any other case, to such percentage on the written down value thereof as may in any case or class of cases be prescribed :]

Provided that—

- (a) the prescribed particulars have been duly furnished ;
  - (b) where full effect cannot be given to any such allowance in any year <sup>34</sup>[not being a year which ended prior to the 1st day of April, 1939,] owing to there being no profits or gains chargeable for that year, or owing to profits or gains chargeable being less than the allowance, <sup>35</sup>[then, subject to the provisions of clause (a) of the proviso to sub-section (2) of section 24,] the allowance or part of the allowance to which effect has been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years ; and
  - (c) the aggregate of all such allowances made under this Act or any Act repealed hereby, or under the Indian Income-tax Act, 1886, shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture, as the case may be ;
- <sup>36</sup> (vii) in respect of any machinery or plant which has been sold or discarded, the amount by which the written down value of the machinery or plant exceeds the amount for which the machinery or plant is actually sold or its scrap value ;

Provided that such amount is actually written off in the books of the assessee ;

Provided further that where the amount for which any such machinery or plant is sold exceeds the written down value, the excess shall be deemed to be profits of the previous year in which the sale took place] ;

<sup>37</sup>[<sup>38</sup>(viii) in respect of animals which have been used for the purposes of the <sup>39</sup>[business, profession or vocation]

33 These words were added, *ibid.*

34 These words were inserted by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

35 These words were inserted by s. 6 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). Cf. foot-note under s. 24, (2), *infra*.

Note :—Effect will not be given to this amendment in the making of any assessment for any year before the year ending on 31-3-1943.

36 This clause was substituted by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

37 This clause was originally inserted as clause (vii) (a) by s. 2 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928).

38 The original clauses (viiia), (viii) and (viiiia) were re-numbered as (viii), (ix) and (x), respectively by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

39 These words were substituted for the word “ business ”, *ibid.*

otherwise than as stock in trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals] ;

[<sup>38</sup>(ix) ] any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the <sup>39</sup>[business, profession or vocation] ;

<sup>40</sup>[<sup>38</sup>((x) ] any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission :

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

- (a) the pay of the employee and the conditions of his service ;
- (b) the profits of the <sup>41</sup>[business, profession or vocation] for the year in question ; and
- (c) the general practice in similar <sup>42</sup>[business, professions or vocations] ;

<sup>43</sup>[ (xi) when the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis, such sum, in respect of bad and doubtful debts, due to the assessee in respect of that part of his business, profession or vocation, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the Income-tax Officer may estimate to be irrecoverable but not exceeding the amount actually written off as irrecoverable in the books of the assessee ;

Provided that if the amount ultimately recovered on any such debt or loan is greater than the difference between the whole debt or loan and the amount so allowed, the excess shall be deemed to be a profit of the year in which it is recovered, and if less, the deficiency shall be deemed to be a business expense of that year] ;

<sup>44</sup>[ (xii) ] any expenditure <sup>45</sup> [(not being in the nature of capital expenditure of personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation] ;

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40 This clause was originally inserted as clause (vii) (a) by s. 2 of the Indian Income-tax (Third Amendment) Act, 1930 (23 of 1930).

41 These words were substituted for the word "business", by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

42 These words were substituted for the word "business", *ibid.*

43 This clause was inserted, *ibid.*

44 The original clause (ix) was re-numbered (xii), by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

45 These words were substituted for the brackets and words "(not being in the nature of capital expenditure) incurred solely for the purposes of earning such profits or gains", *ibid.*

46 The proviso was omitted, *ibid.*

<sup>47</sup> [(3) Where any building, machinery, plant or furniture in respect of which any allowance is due under clause (iv), clause (v), clause (vi) or clause (vii) of sub-section (2) is not wholly used for the purposes of the business, profession or vocation, the allowance shall be restricted to the fair proportional part of the amount which would be allowable if such building, machinery, plant or furniture was wholly so used.

(4) Nothing in clause (ix) or clause (xii) of sub-section (2) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business, profession or vocation or assessed at a proportion of or otherwise on the basis of any such profits or gains; and nothing in clause (xii) of sub-section (2) shall be deemed to authorise—

- (a) any allowance in respect of a payment which is chargeable under the head 'Salaries' if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18; or
- (b) any allowance in respect of any payment by way of interest, salary, commission or remuneration made by a firm to any partner of the firm; or
- (c) any allowance in respect of payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable under the head 'Salaries'.

(5) In sub-section (2), 'paid' means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section; 'plant' includes vehicles, books, scientific apparatus and surgical equipment purchased for the purposes of the business, profession or vocation; and 'written down value' means—

- (a) in the case of assets acquired in the previous year, the actual cost to the assessee;
- <sup>48</sup> [(b) in the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Act, or any Act repealed thereby, or under executive orders issued when the Indian Income-tax Act, 1886, was in force]:

Provided that where the provisions of the proviso to sub-section (2) of section 26 are applicable, the actual cost to the

<sup>47</sup> Sub-sections (3), (4), (5), (6) and (7) were substituted for the original sub-section (3), *ibid.*

<sup>48</sup> Note:—Effect will not be given to this amendment in the making of any assessment for any year before the year ending on 31-3-39. Clause (b) was substituted for the original clauses (b) and (c) by s. 6 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). It makes a radical alteration in the method of computing written-down value in the case on assets acquired before the previous year. Prior to this amendment, in arriving at written-down value sums were deducted from original cost on account of depreciation although no such depreciation had been allowed in assessments. Under this new provision only depreciation actually allowed will be deducted.

assessee referred to in <sup>49</sup>[ clauses (a) and (b)] shall be the actual cost to the person succeeded in the business, profession or vocation.

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(6) A trade, professional or similar association performing specific services for its members for remuneration definitely related to those services shall be deemed for the purpose of this section to carry on business in respect of those services, and the profits and gains therefrom shall be liable to tax accordingly.

(7) Notwithstanding anything to the contrary contained in sections 8, 9, 10, 12 or 18, the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to this Act.]

11. [Omitted by s. 12 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).]

12. (1) The tax shall be payable by an assessee under the head <sup>51</sup>[" Income from other sources "] in respect of Other sources. income, profits and gains of every kind <sup>52</sup>[which may be included in his total income] (if not included under any of the preceding heads).

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, <sup>53</sup>[provided that no allowance shall be made on account of—

- (a) any personal expenses of the assessee, or
- (b) any interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, or not being interest on which tax has been paid or from which tax has been deducted under section 18, or
- (c) any payment which is chargeable under the head ' Salaries ', if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18.]

<sup>54</sup>[(3) Where an assessee lets on hire machinery, plant or furniture belonging to him, he shall be entitled to allowances in accordance with the provisions of clauses (iv), (v), (vi) and (vii) of sub-section (2) of section 10.]

49 These words, brackets and letters were substituted for the words brackets and letters " clauses (a), (b) and (c) " by s. 6 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941).

50 The second proviso was omitted by s. 6, *ibid*.

51 These words were substituted for the words " Other sources " by s. 18 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

52 These words were substituted for the words " and from every source which this Act applies ", *ibid*.

53 These words were substituted for the words " provided that no allowance shall be made on account of any personal expenses of the assessee " by s. 13 of the Income-tax (Amendment) Act, 1939 (7 of 1939).

54 This sub-section was added by s. 13 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>55</sup>[(4) Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, he shall be entitled to allowances in accordance with the provisions of clauses (iv), (v) and (vi) of sub-section (2) of section 10 in respect of such buildings.]

<sup>56</sup>[12A. Where a managing agent of a company is liable under an agreement made for adequate consideration to share managing agency commission with a third party or parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement.]

13. Income, profits and gains shall be computed, for the purposes of sections 10, \*<sup>57</sup>and 12, in accordance with the method of accounting regularly employed by the assessee :

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

14. (1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family, <sup>57A</sup> [where such sum has been received out of the income of the family.]

<sup>58</sup>[(2) The tax shall not be payable by an assessee—

(a) if a partner of an unregistered firm, in respect of any portion of his share in the profits and gains of the firm computed in the manner laid down in clause (b) of sub-section (1) of section 16 on which the tax has already been paid by the firm ; or

(b) if a member of an association of persons other than a Hindu undivided family, a company or a firm, in respect of any portion of the amount which he is entitled to receive from the association on which the tax has already been paid by the association.] ; or

**55 Note :—**Effect will not be given to this amendment in the making of any assessment for any year before the year ending on 31-3-1943. Sub-section (4) was added by s. 7 of the Income-tax (Amendment) Act, 1941 (23 of 1941). It provides for depreciation on buildings let on hire along with machinery, plant or furniture and is in accordance with the decisions of the Madras High Court reported in 2 I.T.C, 251 and of the Calcutta High Court reported in 1935 I.T.R, 114.

**56** This section was inserted by s. 14 of the Income tax (Amendment) Act, 1939.

**57** The figures " 11 " were omitted by s. 15, *ibid*.

**57A** These words were added by the Amendment Act 1944.

**58** This sub-section was substituted by s. 16 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)



<sup>59</sup>[(c) in respect of any income, profits or gains accruing or arising to him within an Indian State, unless such income, profits or gains are received or deemed to be received in or are brought into British India in the previous year by or on behalf of the assessee, or are assessable under section 42.]

**15.** (1) The tax shall not be payable <sup>60</sup>[in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee], or as a contribution to any Provident Fund to which the Provident Funds Act, <sup>61</sup>[1925], applies. \* \* \*

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member.

<sup>62a</sup>[2A) Nothing in sub-section (1) or sub-section (2) shall apply to so much of any premium or other payment made on a policy other than a contract for deferred annuity as in excess of ten per cent of the actual capital sum assured; and in calculating any such capital sum no account shall be taken of the value of any premiums agreed to be returned or of any bonus or otherwise which is to be or may be received either before or after death either by the person paying the premiums or by any other person and which is not the sum actually assured].

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the <sup>63</sup>[second proviso] to sub-section (1) of section 7 <sup>64</sup>[and any sums exempted under sub-section (1) of section 58F], exceed <sup>65</sup>[in the case of an individual, one-sixth of the total income of the assessee, or six

**59. Note :—**Effect will not be given to this amendment in the assessment for any year before the year ending on 31-3-1943. Clause (c) was added by s. 8 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). It is designed to confer an exemption on income arising or accruing in an Indian State. Such income (unless received in or brought into British India or unless assessable under section 42) will be exempted both from income-tax and super-tax but it will be taken into account in calculating income-tax and super-tax. The clause makes an important exception to the residence basis in the case of Indian States. It is enacted with the intention of avoiding the loss that would arise through double income-tax relief if States adopted the residence basis. Cf. foot-note to s. 17 (2) and (4).

<sup>60</sup> These words were substituted for the original words by s. 17, *ibid.*

<sup>61</sup> These figures were substituted for the figures "1897", *ibid.*

<sup>62</sup> The words "or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act" were omitted by s. 5 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

<sup>62A</sup> This sub-section has been inserted by the Amendment Act, 1944.

<sup>63</sup> These words were substituted for the word "proviso" by s. 17 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>64</sup> These words were inserted by s. 3 of the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929).

<sup>65</sup> These words were substituted for the words "one-sixth of the total income of the assessee" by s. 17 of the Indian Income-tax (Amendment) Act 1939 (7 of 1939).

thousand rupees, whichever is less, and in the case of a Hindu undivided family, one-sixth of the total income of the assessee, or twelve thousand rupees, whichever is less].

Exemptions  
and exclusions  
determining the  
total income.

16. <sup>66</sup>[ (1) In computing the total income of an assessee—

(a) any sums exempted under the second proviso to sub-section (1) of section 7, the second and third provisos to section 8, sub-section (2) of section 14 and section 15 shall be included ;

(b) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year ;

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 24 ;

(c) all income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939, from assets remaining the property of the settlor or disponent, shall be deemed to be income of the settlor or disponent and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor :

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponent or transferor, or in any way gives the settlor, disponent or transferor a right to reassume power directly or indirectly over the income or assets :

Provided further that the expression ' settlement or disposition ' shall for the purposes of this clause include any disposition, trust, covenant, agreement, or arrangement and the expression ' settlor or disponent ' in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made ;

66 Sub-sections (1) and (2) were substituted by s. 18, *ibid.*



Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which income the settlor or disponent derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said income as and when the power to revoke arises to him.

(2) For the purposes of inclusion in the total income of an assessee any dividend shall be deemed to be income of the previous year in which it is paid, credited or distributed or deemed to have been paid, credited or distributed to him, <sup>67</sup>[and shall be increased to such amount as would, if income-tax (but not super-tax) at the rate applicable to the total income of a company for the financial year in which the dividend is paid, credited or distributed or deemed to have been paid, credited or distributed, were deducted therefrom, be equal to the amount of the dividend :]

Provided that when any portion of the profits and gains of the company out of which such dividend has been paid, credited or distributed or deemed to have been paid, credited or distributed was not liable to income-tax in the hands of the company, <sup>68</sup>[the increase to be made] under this section shall be calculated upon only such proportion of the dividend as the amount of the profits and gains of the company liable to income-tax bears to the total profits and gains of the company.]

<sup>69</sup> [(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

- (a) so much of the income of a wife or minor child of such individual as arises directly or indirectly—
  - (i) from the membership of the wife in a firm of which the husband is a partner ;
  - (ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner ;

67. These words which were substituted by s. 9 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941) are intended to clarify the meaning of section 16 (2) which was open to misinterpretation. If we take the case of a profit of one rupee on which four annas tax is paid leaving 12 annas which is paid out as dividend, what the sub-section is intended to secure is that the tax on one rupee shall be added to the dividend of 12 annas for the purpose of including the dividend in the share-holder's income. But the subsection as it previously stood was open to the interpretation that it is the tax on 12 annas and not on one rupee that should be added. The amendment makes the position clear.

68. These words were substituted for the words "the income-tax to be added" by s. 9 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941).

69. This sub-section was added by s. 2 of the Indian Income-tax (Amendment) Act, 1937 (4 of 1937).

(iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart ; or

(iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual <sup>70</sup>[otherwise than for adequate consideration]; and

(b) so much of the income of any <sup>71</sup>[person or association of persons] <sup>72</sup>\* \* \* \* as arises from assets transferred <sup>73</sup>[otherwise than for adequate consideration to the person or association] by such individual <sup>74</sup> [for the benefit of his wife or a minor child or both].]

<sup>75</sup>[17. (1) Where a person is not resident in British India and is a British subject as defined in <sup>76</sup>[section 27 of the British Nationality and Status of Aliens Act, 1914, or a subject of a State in India or Burma, <sup>77</sup>[or a native of a Tribal Area,] the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income; and in the case of any other non-resident person, the income-tax payable by him or on his behalf on his total income shall be at the maximum rate and the super-tax payable thereon shall be an amount bearing to the total amount of super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income.

(2) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of the income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income.]

<sup>70</sup> These words were inserted by s. 18 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>71</sup> These words were substituted for the word "association of individuals" *ibid.*

<sup>72</sup> The words "consisting of such individual and his wife" were omitted, *ibid.*

<sup>73</sup> These words were substituted for the words "to the association", *ibid.*

<sup>74</sup> These words were added, *ibid.*

<sup>75</sup> This section was substituted by s. 19, *ibid.*

<sup>76</sup> This word and the figures were substituted for the word and figures "section 17" by the Repealing and Amending Act, 1939 (34 of 1939).

<sup>77</sup> These words were inserted by s. 10 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). This amendment puts, for the purposes of the rate of tax, non-resident natives of tribal areas in the same category as non-resident British subjects and subjects of States in India and Burma.

<sup>78</sup>[ (3) Where there is included in the total income of any assessee any income exempted from tax under clause (c) of sub-section (2) of section 14, the super-tax payable by the assessee shall be an amount bearing to the total amount of the super-tax which would have been payable on the total income had no part of it been so exempted the same proportion as the total income less the portion so exempted bears to the total income.

(4) Where any income exempted from tax under clause (c) of sub-section (2) of section 14 which has been taken into account under sub-section (2) or sub-section (3) of this section as part of the total income of an assessee for the purposes of determining the income-tax or super-tax payable by him is in a subsequent year brought into or received in British India by the assessee and becomes chargeable with tax accordingly, the tax including super-tax payable by the assessee on his total income of that subsequent year shall be—

- (a) the amount which bears to the total amount of the tax including super-tax which would have been payable on his total income as reduced by the amount of the income so brought into or received in British India had such reduced income been his total income the same proportion as his total income bears to such reduced income, or
- (b) the amount which bears to the total amount of the tax including super-tax which would have been payable on the amount of the income so brought into or received in British India had such income been his total income the same proportion as his total income bears to the amount of the income so brought into or received in British India,  
whichever is the greater.]

<sup>78</sup> Sub-sections (3) and (4) were added by s. 10 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). *Sub-section* (3) is designed to confer an exemption on income arising or accruing in an Indian State. Such income (unless received in or brought into British India or unless assessable under s. 42) will be exempted both from income tax and super-tax but it will be taken into account in calculating income-tax and super-tax. The sub-section makes an important exception to the residence basis in the case of Indian States. It is designed with the intention of avoiding the loss that would arise through double income-tax relief if States adopted the residence basis. (Cf. foot-note under s. 14 (2) (c) *supra*.)

*Sub-section* (4), which was added by the Select Committee, provides relief from the hardship which would be incurred if income accruing in an Indian State and once taken into account for rate purposes in the year of accrual were again to be taken into account for rate purposes in the year of remittance into British India. The effect of this sub-section is to secure that it shall not be taken into account for rate purposes in the year of remittance so long as it does not exceed in amount the British Indian income of that year. If it does exceed the British Indian income in that year, the rate of tax will be the rate applicable to the amount of the income accrued outside British India on the supposition that it represented the total income of the assessee. This provision is necessary in order to safeguard revenue in years when the British Indian income of the assessee is small in proportion to the amount remitted from outside.

**Note:**—Effect will not be given to this amendment in the making of any assessment under the Act for any year before the year ending on 31-3-1943.

## CHAPTER IV

## DEDUCTIONS AND ASSESSMENT

Payment by  
deduction at  
source.

18.

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(2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax <sup>2</sup>[and super-tax] on the amount payable <sup>3</sup>[at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head] :

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

<sup>4</sup>[(2A) Notwithstanding anything hereinbefore contained for the purpose of making the deduction under sub-section (2), there shall be included in the amount payable any income chargeable under the head "Salaries" which is payable to the assessee out of India by or <sup>5</sup>[on behalf of the Crown], and the value in rupees of such income shall be calculated at the prescribed rate of exchange.]

<sup>6</sup>[(2B) Any person responsible for paying any income chargeable under the head 'Salaries' to a person not resident in British India shall at the time of payment deduct income-tax at the maximum rate and also super-tax at the rate or rates applicable to the estimated income of the assessee under this head.]

(3) The person responsible for paying any income chargeable under the head "Interest on securities" shall, <sup>7</sup>[unless otherwise prescribed in the case of any security of the <sup>8</sup>[Central Government]], at the time of payment, deduct income-tax <sup>7</sup>[but not super-tax] on the amount of the interest payable at the maximum rate :

<sup>9</sup>[Provided that where the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total

1. Sub-section (1) was omitted by s. 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

2 These words were substituted for the words "but not super-tax" by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

3 These words were substituted for the words "at the rate applicable to the estimated income of the assessee under this head", *ibid.*

4. This sub-section was added by s. 2 of the Indian Income-tax (Second Amendment) Act, 1925 (16 of 1925).

5 These words were substituted for the words "on behalf of Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

6 This sub-section was inserted by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

7 These words were inserted by s. 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

8 These words were substituted for the words "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

9 This proviso and sub-sections (3A) to (3D) since renumbered (3B) to (3E) were inserted by s. 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

income <sup>10</sup>[or the total world income] of a recipient will be less than the minimum liable to income-tax or will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income <sup>11</sup>[referred to in this sub-section or in sub-section (2B), as the case may be,] to such recipient shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be."

<sup>12</sup>[(3A) Any person responsible for paying to a person not resident in British India any interest not being 'Interest on Securities', or any other sum chargeable under the provisions of this Act, shall at the time of payment, unless, he is himself liable to pay income-tax thereon as an agent, deduct income-tax at the maximum rate] :

<sup>12</sup>[Provided that where the person so payable is a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, or a subject of a State in India or Burma, and the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total world income of such person will be less than the minimum liable to income-tax or that his total income will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income referred to in this sub-section shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be :

Provided further that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which the person responsible for making the payment is deemed under the first proviso to section 43 not to be an agent of the payee.]

<sup>14</sup>[(3B) Where the Income-tax Officer has reason to believe that the <sup>15</sup>[total world income] of any person residing out of British India to whom any interest not being "Interest on Securities" <sup>16</sup>[or any other sum chargeable under this Act] is payable, will in any year exceed the maximum amount which is not chargeable with super-tax under the law for the time being in force, he may, by order in writing, require the person responsible for <sup>17</sup>[making] such pay

<sup>10</sup> These words were inserted by s. 20 of the Indian Income-tax (Amendments) Act, 1939 (7 of 1939).

<sup>11</sup> These words, brackets, figure and letter were substituted for the words "herein referred to", *ibid.*

<sup>12</sup> This sub-section was inserted by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>13</sup> These provisos were added by s. 6 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

<sup>14</sup> Sub-sections (3A), (3B), (3C) and (3D) were respectively re-numbered (3B), (3C), (3D) and (3E), by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>15</sup> These words were substituted for the words "total income", *ibid.*

<sup>16</sup> These words were inserted by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>17</sup> These words were substituted for the words "paying such interest," *ibid.*

ments] to such person to deduct at the time of payment <sup>18\*</sup> \* \* super-tax at the rates determined by the Income-tax Officer to be applicable to the <sup>19</sup>[total world income] of such person in that year.

<sup>20</sup>[(3C)] Where the person responsible for paying any interest not being "Interest on Securities" <sup>20a</sup> [or any other sum chargeable under this Act] to any person <sup>21</sup>[makes to that person in any year payments] exceeding in the aggregate the maximum amount which is not chargeable with super-tax under the law for the time being in force, the person responsible for <sup>21a</sup>[making such payments], shall, if he has not reason to believe that the recipient is resident in British India, and no order under <sup>22</sup>[sub-section (3B)] has been received in respect of such recipient, deduct at the time of payment <sup>23\*</sup> \* \* \* super tax on the amount by which <sup>24</sup>[the total amount of such payments] exceeds the maximum amount not chargeable with super-tax at the rate applicable to such excess.

<sup>20</sup>[(3D)] Where the Income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of British India and that the <sup>25</sup>[total world income] of such person will in any year exceed the maximum amount which is not chargeable to super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the shareholder in that year super tax at such rate as the Income-tax Officer may determine as being the rate applicable in respect of the income of the shareholder in that year.

<sup>26</sup>[(3E)] If in any year the amount of any dividend or the aggregate amount of any dividends paid to any shareholder by a company <sup>27</sup>[(increased in accordance with the provisions of sub-section (2) of section 16)] exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal officer of the company has no reason to believe that the shareholder is resident in

18 The words "Income-tax and" were omitted, by s. 20 of the Indian income-tax (Amendment) Act, 1939 (7 of 1939).

19 These words were substituted for the words "total income", *ibid.*

20 Sub-sections (3A), (3B), (3C) and (3D) were respectively re-numbered (3B), (3C), (3D) and (3E), *ibid.*

20a These words were inserted by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

21 These words were substituted for the words "pays to that person in any year an amount of such interest", *ibid.*

21a These words were substituted for the words "paying such interest," *ibid.*

22 This word, figure, letter and brackets were substituted for the word, brackets, figure and letter "sub-section (3A)", *ibid.*

23 The words "income-tax on the total amount of such interest at the rate appropriate to such total, and" were omitted, *ibid.*

24 These words were substituted for the words "such total", *ibid.*

25 These words were substituted for the words "total income", by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

26 Sub-sections (3A), (3B), (3C) and (3D) were respectively re-numbered (3B), (3C), (3D) and (3E), *ibid.*

27 These words and brackets were substituted for the words and brackets ("together with the amount of any income-tax payable by the company in respect thereof") by s. 11 of the Indian Income-tax (Amendment) Act, 1941 (28 of 1941).



British India, and no order under <sup>28</sup>[sub-section (3D) ] has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends <sup>29</sup>[ (increased as aforesaid ) ] constituted the whole total income of the shareholder.]

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(5) Any deduction made in accordance with the provisions of this section <sup>30</sup>[and any sum by which a dividend has been increased under sub-section (2) of section 16] shall be treated as a payment of income-tax <sup>31</sup>[or super-tax] on behalf of the person from whose income the deduction was made, or of the owner of the security <sup>32</sup>[or the share-holder], as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act :

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund :

<sup>33</sup>[Provided further that where such person or owner is a person whose income is included under the provisions of <sup>34</sup>[clause (c) of sub-section (1) or sub-section (3) of section 16, section 44D or section 44E] in the total income of another person <sup>35</sup>[such other person] shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year.]

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the <sup>36</sup>[Central Government] or as the <sup>37</sup>[Central Board of Revenue] directs.

28 This word, figure, letter and brackets were substituted for the word brackets, figure and letter " sub-section (3C) " by s. 20 of Act 7 of 1939.

29 These words and brackets were substituted for the words and brackets " (together with the amount of such income-tax as aforesaid) " by s. 11 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941).

30 These words were inserted by s. 20 of Act 7 of 1939.

31 These words were inserted by s. 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

32 These words were inserted by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

33 This proviso was added by s. 3 of the Indian Income-tax (Amendment) Act, 1939 (4 of 1939).

34 These words, brackets, letters and figures were substituted for the words, brackets and figures " sub-section (3) of section 16 " by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

35 These words were substituted for the words " that person ", *ibid.*

36 These words were substituted for the words " Government of India " by the Government of India (Adaptation of Indian Laws) Order, 1937.

37 These words were substituted for the words " Board of Inland Revenue " by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

(7) If any such person does not deduct <sup>38</sup>[or after deduction fails to pay] the tax as required by <sup>39</sup>[or under] this section, <sup>40</sup>[he, and in the cases specified in sub-sections (3D) and (3E) the company of which he is the principal officer], shall without prejudice to any other consequences which <sup>41</sup>[he or it] may incur, be deemed to be <sup>42</sup>[an assessee] in default in respect of the tax :

<sup>43</sup>[Provided that the Income-tax Officer shall not make a direction under sub-section (1) of section 46 for the recovery of any penalty from such person unless satisfied that such person has wilfully failed to deduct and pay the tax.]

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

(9) Every person deducting income-tax <sup>44</sup>[or super-tax] in accordance with the provisions of <sup>45</sup>[sub-sections (3), (3A), (3B), (3C), <sup>46</sup>[(3D) or (3E)] ], shall, <sup>47</sup>[at the time of payment of the sum from which tax has been deducted], furnish to the person to whom<sup>48</sup> [such payment is made] a certificate to the effect that income-tax <sup>44</sup>[or super-tax] has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed.

[<sup>48A</sup> 18A. *Advance payment of tax.*—(1) (a) In the case of income in respect of which provision is not made under Section 18 for deduction of income-tax at the time of payment, the Income-tax Officer may, on or after the 1st day of April in any financial year, by order in writing require an assessee to pay quarterly to the credit of the Central

38 These words were substituted for the words “ and pay ” by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

39 These words were inserted by s. 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

40 These words were substituted for the word “ he ” by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

41 These words were substituted for the word “ he ”, *ibid.*

42 These words were inserted by s. 7 of Act 18 of 1933.

43 This proviso was added, *ibid.*

44 These words were inserted, *ibid.*

45 These words, brackets and figures were substituted for the word, brackets and figures “ sub-section (3) ”, *ibid.*

46 These brackets, figures letters and word were substituted for the word, brackets, figure and letter “ or (3D) ” by s. 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

47 These words were substituted for the words “ at the time of payments of interest or dividends ”. *ibid.*

48 These words were substituted for the words “ the interest is paid ” by s. 2 and Sch. I of the Repealing and Amending Act, 1935 (12 of 1935).

48-A This section was added by the Income-Tax Amendment Act, 1944.



Government on the 15th day of June, 15th day of September, 15th day of December and 15th day of March in that year, respectively an amount equal to one-quarter of the income-tax and super-tax payable on so much of such income as is included in his total income of the latest previous year in respect of which he has been assessed, if that total income exceeded six thousand rupees. Such income-tax and super-tax shall be calculated at the rates in force for the financial year in which he is required to pay the tax, and shall bear to the total amount of income-tax and super-tax so calculated on the said total income the same proportion as the amount of such inclusions bears to his total income or, in cases where under the provisions of sub-section (1) of Section 17 both income-tax and super-tax or super-tax are chargeable with reference to the total world income, shall bear to the total amount of income-tax and super-tax which would have been payable on his total world income of the said previous year had it been his total income the same proportion as the amount of such inclusions bears to his total world income :

Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the order in writing issued by the Income-tax Officer requiring the payment of income-tax and super-tax on that source of income shall substitute for the four quarterly payments hereinbefore specified; three payments of equal amount to be made on the 15th day of September, the 15th day of December and 15th day of March, respectively :

Provided further that, if the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than that for which the assessee's last assessment has been completed, his share in profits of the firm shall, for the purposes of this sub-section, be included in his total income on the basis of the latest assessment of the firm :

Provided further that, if after the making of an order by the Income-tax Officer and before the 15th day of February of the financial year an assessment of the assessee or of the registered firm of which he is a partner is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal

instalments on the specified dates if more than one, falling after the date of the amended order, the tax completed on the revised basis as reduced by the amount, if any, paid in accordance with the original order ; but if the amount already paid exceeds the tax determined on the revised basis, the excess shall be refunded.

(b) If the notice of demand issued under Section 29 in pursuance of the order under clause (a) of this sub-section is served after any of the dates on which the instalments specified therein are payable, the tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 15th day of March if the notice is served after the 15th day of December.

(2) If any assessee who is required to pay tax by an order under sub-section (1) estimates at any time before the last instalment is due that the part of his income to which that sub-section applies for the period which would be the previous year for an assessment for the year next following is less than the income on which he is required to pay tax and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer an estimate of the tax payable by him calculated in the manner laid down in sub-section (1) on that part of his income for such period and shall pay such amount as accords with his estimate in equal instalments on such of the dates specified in sub-section (1) (a) as have not expired or in one sum if only the last of such dates has not expired :

Provided that the assessee may send a revised estimate of the tax payable by him before any one of the dates specified in sub-section (1) (a) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(3) Any person who has not hitherto been assessed shall, before the 15th day of March in each financial year, if his total income of the period which would be the previous year for an assessment for the financial year next following is likely to exceed six thousand rupees, send to the Income-tax Officer an estimate of the tax payable by him on that part of his income to which the provisions of Section 18 do not apply of the said previous year calculated in the manner laid down in sub-section (1), and shall pay the amount, on such of the dates specified in that sub-section as have not expired, by instalments which may be revised according to the proviso to sub-section (2).

(4) Where part of the income to which sub-section (1), (2) or (3) applies consists of any income of the nature of commission which is

receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of tax become due, he may defer payment of tax on that part of his income to the date on which such income would be normally received or adjusted and if he does so he shall communicate to the Income-tax Officer the date to which such payment is deferred :

Provided that, if the tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account the tax shall be payable with six per cent. simple interest per annum from the date of such receipt or adjustment to the date of payment of the tax.

(5) The Central Government shall pay on any amount paid under this section simple interest at two per cent. per annum from the date of payment to the date of the assessment (hereinafter called the 'regular assessment') made under Section 23 of the income, profits and gains of the previous year for an assessment for the year next following the year in which the amount was payable :

Provided that on any portion of such amount which is refunded under the foregoing provisions of this section interest shall be payable only up to the date on which the refund was made.

(6) Where in any year an assessee has paid tax under sub-section (2) or sub-section (3) on the basis of his own estimate, and the tax so paid is less than eighty per cent. of the tax determined on the basis of the regular assessment, so far as such tax relates to income to which the provisions of Section 18 do not apply and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rate of six per cent. per annum from the 1st day of January in the financial year in which the tax was paid up to the date of the said regular assessment shall be payable by the assessee upon the amount by which the tax so paid falls short of the said eighty per cent :

Provided that, where, as a result of an appeal under Section 31 or Section 33 or of a revision under Section 33 A or of a reference to the High Court under Section 66, the amount on which interest was payable under this sub-section has been reduced the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable :

Provided further that, where a business, profession or vocation is newly set up and is assessable on the income, profits and gains of its first previous year in the financial year following that in which it is set up, the interest payable shall be computed from the 1st day of April of the said financial year.

(7) Where, on making the regular assessment, the Income-tax Officer finds that any assessee has—

(a) under sub section (2) or sub-section (3) underestimated the tax payable by him and thereby reduced the amount payable in any of the first three instalments, or

(b) under sub-section (4) wrongly deferred the payment of tax on a part of his income,

he may direct that the assessee shall pay simple interest at six per cent. per annum; in the case referred to in clause (a) for the period during which the payment was deficient on the difference between the amount paid in each such instalment and the amount which should have been paid having regard to the aggregate tax actually paid under this section during the year, and in the case referred to in clause (b) for the period during which the payment of tax was wrongly deferred on the amount of which the payment was so deferred :

Provided that for the purposes of this sub-section any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.

(8) Where, on making the regular assessment, the Income-tax Officer finds that no payment of tax has been made in accordance with the foregoing provisions of this section, interest calculated in the manner laid down in sub-section (6) shall be added to the tax as determined on the basis of the regular assessment.

(9) If the Income-tax Officer, in the course of any proceeding in connection with the regular assessment, is satisfied that any assessee—

(a) has furnished under sub-section (2) or sub-section (3) estimates of the tax payable by him which he knew or had reason to believe to be untrue, or

(b) has without reasonable cause failed to comply with the provisions of sub-section (3),

the assessee shall be deemed, in the case referred to in clause (a), to have deliberately furnished inaccurate particulars of his income, and in the case referred to in clause (b), to have failed to furnish the return of his total income ; and the provisions of section 28, so far as may be, shall apply accordingly :

Provided that the amount of penalty leviable shall, in the case referred to in clause (a), be a sum not exceeding one-and-a-half times the amount by which the tax actually paid during the year under the provisions of this section falls short of the tax that should have been paid by the assessee under sub-section (1) or eighty per cent, of the tax determined on the basis of the regular assessment as modified in the manner provided in sub-section (6), whichever is the less, and, in the case referred to in clause (b), one-and-a-half times the said eighty per cent.

(10) (a) If any assessee does not pay on the specified dates any instalment of tax that he is required to pay under sub-section (1) and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (2) an estimate or a revised estimate of the tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(b) If any assessee has sent under sub-section (2) or sub-section (3) an estimate or a revised estimate of the tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in sub-section (1), he shall be deemed to be an assessee in default in respect of such instalment or instalments :

Provided that the assessee shall not, under clause (a) or (b), be deemed to be in default in respect of any amount of which the payment is deferred under sub-section (4) until after the date communicated by him to the Income-tax Officer under that sub-section.

(11) Any sum other than a penalty or interest paid by or recovered from an assessee in pursuance of the provisions of this section shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the financial year next following the year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

<sup>49</sup>[19. In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of section 18, income-tax shall be payable by the assessee direct.]

<sup>50</sup>[19 A. The principal officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each shareholder.]

20. The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

<sup>51</sup>[20 A. The person responsible for paying any interest not being "Interest on securities" shall, on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount not being less than <sup>52</sup>[four hundred] rupees as may be prescribed in this behalf, together with the amount paid to each such person.]

21 The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private employer shall prepare,

<sup>49</sup> This section was substituted by s. 21 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>50</sup> This section was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926).

<sup>51</sup> This section was inserted by s. 9 of the Indian Income-tax (Second Amendment) 1933 (18 of 1933).

<sup>52</sup> These words were substituted for the words "one thousand" by s. 22 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form <sup>53</sup>[and verified in the prescribed manner], a return in writing showing—

- (a) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March, or has received <sup>54</sup>[or to whom was due] during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head “Salaries” of such amount as may be prescribed ;
- (b) the amount of the income so received <sup>54</sup>[or so due] by each such person, and the time or times at which the same was paid <sup>56</sup>[or due, as the case may be] ;
- (c) the amount deducted in respect of income-tax <sup>54</sup>[and super-tax] from the income of each such person.

22. <sup>56</sup>[(1) The income-tax Officer shall, on or before the 1st day of May in each year, give notice, by publication in the press and by publication in the prescribed manner, requiring every person whose total income during the previous year exceeded the maximum amount which is not chargeable to income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total income and total world income during that year :

Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons].

(2) In the case of any person <sup>57</sup>\* \* \* \* whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer <sup>58</sup>[may serve] a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income <sup>59</sup>[and total world income] during the previous year :

<sup>60</sup>[Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return.]

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having

<sup>53</sup> These words were inserted by s. 23, *ibid.*

<sup>54</sup> These words were inserted by s. 23 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>55</sup> These words were added, *ibid.*

<sup>56</sup> This sub-section was substituted by s. 24 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>57</sup> The words “other than a company” were omitted, *ibid.*

<sup>58</sup> These words were substituted for the words “shall”, *ibid.*

<sup>59</sup> These words were inserted, *ibid.*

<sup>60</sup> This proviso was added, *ibid.*



furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made. <sup>61\*</sup> \* \* \*

(4) The income-tax Officer may serve <sup>62\*</sup> \* \* \* on any person <sup>63</sup>[who has made a return under sub-section (1) or ] upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require :

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

<sup>64</sup>[(5) The prescribed form of the returns referred to in sub-sections (1) and (2) shall, in the case of an assessee engaged in any business, profession or vocation, require him to furnish particulars of the location and style of the principal place wherein he carries on the business, profession or vocation and of any branches thereof, the names and addresses of his partners, if any, in such business, profession or vocation and the extent of the share of the assessee and the shares of all such partners in the profits of the business, profession or vocation and any branches thereof.]

23. (1) If the Income-tax Officer is satisfied <sup>65</sup>[without requiring the presence of the assessee or the production by him of any evidence] that a return made under section 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Income-tax Officer <sup>66</sup>[is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person], a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) <sup>66</sup>[If any person fails to make the return required by any notice given under sub-section (2) of section 22 and has not made

61 The words " and any return so made shall be deemed to be a return made in due time under this section " were omitted, *ibid.*

62 The words " on the principal officer of any company or " were omitted, *ibid.*

63 These words were inserted, *ibid.*

64 This sub-section was added, *ibid.*

65 These words were inserted by s. 25 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

66 These words were substituted for the original words by s. 25, *ibid.*

a return or a revised return under sub-section (8) of the same section] or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax officer shall make the assessment to the best of his judgment <sup>67</sup>[and determine the sum payable by the assessee on the basis of such assessment] <sup>68</sup>[and, <sup>69</sup>[in the case of a firm, may refuse to register it or may cancel its registration if it is already registered] ] :

<sup>70</sup>[Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration.]

<sup>71</sup>[ (5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be,—

- (a) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined :

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 24 :

Provided further that when any of such partners is a person not resident in British India, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm ; and

- (b) in the case of an unregistered firm, the Income-tax Officer may instead of determining the sum payable by the firm itself proceed in the manner laid down in-clause (a) as applicable to a registered firm, if, in his opinion, the aggregate amount of the tax including super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm.]

<sup>67</sup> These words were inserted, *ibid.*

<sup>68</sup> The original words were added by s. 3 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

<sup>69</sup> These words were substituted for the words "in the case of a registered firm, may cancel its registration" by s. 25 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>70</sup> This proviso was added by s. 3 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

<sup>71</sup> Sub-section (5) was added by s. 25 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).



<sup>72</sup>[(6) Whenever the Income-tax Officer makes a determination in accordance with the provisions of sub-section (5), he shall notify to the firm by an order in writing the amount of the total income on which the determination has been based and the apportionment thereof between the several partners.]

<sup>73</sup>[23 A. <sup>74</sup>\* \* \* \* \*

<sup>75</sup>[ (1) ] <sup>75</sup>[Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company up to the end of the sixth month after its accounts for that previous year are laid before the company in general meeting <sup>76</sup>\* \* \* are less than sixty per cent. of the assessable income of the company of that previous year, <sup>77</sup>[as reduced by the amount of income-tax and super-tax payable by the company in respect thereof] he shall, unless he is satisfied that having regard to losses incurred by the company in earlier years or to the smallness of the profit made, the payment of a dividend or a larger dividend than that declared would be unreasonable, make with the previous approval of the Inspecting Assistant Commissioner an order in writing that the undistributed portion of the assessable income of the company of that previous year as computed for income-tax purposes <sup>77</sup>[and reduced by the amount of income-tax and super-tax payable by the company in respect thereof] shall be deemed to have been distributed as dividends amongst the shareholders as at the date of the general meeting aforesaid, and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purpose of assessing his total income :

Provided that when the reserves representing accumulations of past profits which have not been the subject of an order under this sub-section exceed the paid up capital of the company, together with any loan capital which is the property of the shareholders, or the actual cost of the fixed assets of the company whichever of these is greater, this section shall apply as if instead of the words 'sixty per cent.' <sup>78</sup>\* \* \* the words 'one hundred per cent.' <sup>77</sup>\* \* \* were substituted :

Provided further that no order under this sub-section shall be made where the company has distributed not less than

<sup>72</sup> Sub-section (6) was added by s. 12 of the Indian Income tax (Amendment) Act, 1941 (23 of 1941) and seeks to remedy a defect in the Act which does not provide for communication of the order in question to the firm. Such communication is necessary for appeal purposes. A corresponding amendment is sought to be made in section 30 (2). The second proviso to section 30 (1) may also be referred to.

<sup>73</sup> This section was inserted by s. 4 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

<sup>74</sup> The original subsection (1) was omitted by s. 26 of the Indian Income-tax (Amendment Act, 1939 (7 of 1939).

<sup>75</sup> The original sub-section (2) was renumbered (1) and this portion was substituted, *ibid.*

<sup>76</sup> The words "increased by any income-tax payable thereon" were omitted by s. 7 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

<sup>77</sup> These words were inserted, *ibid.*

<sup>78</sup> The words "of the assessable income" were omitted, *ibid.*

fifty-five per cent. of the assessable income of the company<sup>79</sup>[as reduced by the amount of income-tax and super-tax payable by the company in respect thereof], unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its profits and gains so that the total distribution made is not less than sixty per cent. of the assessable income of the company of the previous year concerned<sup>79</sup>[as reduced by the amount of income-tax and super-tax payable by the company in respect thereof] ] :

<sup>80</sup>[Provided further that this sub-section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company if the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.]

*Explanation.*—For the purpose of this sub-section,—

81\* \* \* \* \*

<sup>81</sup>\* a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in British India or are in fact freely transferable by the holders to other members of the public.

83\* \* \* \* \*

<sup>84</sup>[(2)] The <sup>85</sup>[Inspecting] Assistant Commissioner shall not give his approval to any order proposed to be passed by the Income-tax Officer under this section until he has given the <sup>86</sup>\* \* \* company concerned an opportunity of being heard.

<sup>87</sup>[(3)] <sup>88</sup>\* \* \* \* \*

(ii) Where the proportionate share of any member of a company in the undistributed profits and gains of the company has been included in his total income under the provisions of <sup>89</sup>[sub-section (1)] the tax payable in respect thereof shall be recoverable

<sup>79</sup> These words were inserted, *ibid.*

<sup>80</sup> This proviso was substituted by s. 26 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>81</sup> Clause (a) was omitted, *ibid.*

<sup>82</sup> The brackets and letter “(b)” were omitted, *ibid.*

<sup>83</sup> Clauses (c) and (d) were omitted by s. 26 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>84</sup> The original sub-section (3) was re-numbered (2), *ibid.*

<sup>85</sup> This word was inserted, *ibid.*

<sup>86</sup> The words “firm, association or” were omitted, *ibid.*

<sup>87</sup> The original sub-section (4) was re-numbered (3), *ibid.*

<sup>88</sup> The sub-clause (i) was omitted, *ibid.*

<sup>89</sup> This word, brackets and figure were substituted for the word brackets and figure “sub-section (2)”, *ibid.*

from the company, <sup>90</sup>[if it cannot be recovered from such member] <sup>91</sup>\* \* \* \*

(iii) Where tax is recoverable from a company <sup>92</sup>[\* \* under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company <sup>93</sup>[\* \* shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter VI.

<sup>94</sup>[(4)] Where tax has been paid in respect of any undistributed profits and gains of a company under this section, and such profits and gains are subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total income of that year.

<sup>95</sup>[5] When a company is a shareholder deemed under sub-section (1) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be part of its total income for the purpose also of the application of that subsection to distributions of profits by that company]

24. (1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in the year :

<sup>95</sup>A[Provided that where loss sustained is a loss of profits or gain which would but for the loss have accrued or arisen within an Indian State and would, under the provisions of clause (c) of sub-section (2) of section 14 have been exempt from tax, such loss shall not be set off except against profits or gains accruing or arising within an Indian State and exempt from tax under the said provisions.]

<sup>96</sup>[Provided further that where the assessee is an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, any such loss shall be set off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm ; and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners of the firm and they alone shall be entitled to have the amount of the loss set off under this section].

<sup>97</sup>[(2) Where any assessee sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940,

<sup>90</sup> These words were substituted for the words "and may be recovered from such member", *ibid*.

<sup>91</sup> The original words were omitted, *ibid*.

<sup>92</sup> The words "firm or other association" were omitted, *ibid*.

<sup>93</sup> The words "firm or association" were omitted by s. 26 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>94</sup> The original sub-section (5) was re-numbered (4), *ibid*.

<sup>95</sup> This sub-section was added, *ibid*.

<sup>95A</sup> This proviso was added by the Amendment Act 1944.

<sup>96</sup> This proviso was added by s. 27, of the Income tax (Amendment) Act, 1939 (7 of 1939).

<sup>97</sup> Sub-sections (2) and (2) were substituted for the original sub-section (2), *ibid*.

under the head ' Profits and gains of business, profession or vocation ', and the loss cannot be wholly set off under sub-section (1), the portion not so set off shall be carried forward to the following year and set off against the profits and gains, if any, of the assessee from the same business, profession or vocation for that year; and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year, and so on; but no loss shall be so carried forward for more than six years, and a loss arising in the previous years for the assessment for the years ending on the 31st day of March, 1940, the 31st day of March, 1941, the 31st day of March, 1942, the 31st day of March, 1943, and the 31st day of March 1944, respectively, shall be carried forward only for one, two, three, four and five years, respectively :

<sup>98</sup>[Provided that—

<sup>93</sup>A.[(a) Where the loss sustained is a loss of profits and gains of a business, profession or vocation to which the first proviso to sub-section (i) is applicable, and the profits and gains of that business, profession or vocation are, under the provisions of clause (c) of sub-section (2) of section 14, exempt from tax, such loss shall not be set off except against profits and gains, accruing or arising in an Indian State from the same business, profession or vocation and exempt from tax under the said provisions,]

(b) where depreciation allowance is, under clause (b) of the proviso to clause (vi) of sub-section (2) of section 10, also to be carried forward, effect shall first be given to the provisions of this sub-section ;]

<sup>99</sup>[(c)] Nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners, under the proviso to sub-section (1), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, to have carried forward and set off against his own income any loss sustained by the firm ;

<sup>1</sup>[(d)] Where an unregistered firm is assessed as a registered firm under clause (b) of sub-section (5) of section 23, during any year, its losses shall also be carried forward and set off under this section as if it were a registered firm ;

<sup>98</sup> This proviso was inserted by s. 13 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). Proviso (b) to section 10 (2) (vi) deals with carry-forward of unabsorbed depreciation and section 24 (2) deals with carry-forward of losses. As these provisions stood prior to this amendment, they were interpreted to mean that depreciation must be set off before losses. As a result cases arose in which the assessee was deprived of the benefits of section 24 (2). The amendment proposes that losses shall be set off before depreciation. Please see foot-note to Proviso (b) of s. 10 (2) (vi).

<sup>98A</sup> This clause was added by the Amendment Act 1944

<sup>99</sup> These brackets and letter were substituted for the words " Provided that " by s. 13, by the Income tax (Amendment) Act 1941 (23 of 1941).

<sup>1</sup> These brackets and letter were substituted for the words " Provided further that " by s. 13, *ibid.*

<sup>2</sup>[(e) where a change has occurred in the constitution of a firm, nothing in this section shall be deemed to entitle the firm to have set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of clause (b) of sub-section (1) of section 16 as exceeds his share of profits, if any, of the previous year in the firm, or to entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under the said clause (b), and where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains.]

(3) When, in the course of the assessment of the total income of the assessee, it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section ]

<sup>3</sup>[24A. (1) When it appears to the Income-tax Officer that any person may leave British India during the current financial year, or shortly after its expiry, and that he has no present intention of returning, the Income-tax Officer may proceed to assess him on his total income <sup>4</sup>[of the period from the expiry of the last previous year of which the income has been assessed in his hands to the probable date of his departure from British India, or where he has not been previously assessed, on his total income of the period up to the probable date of his departure from British India. The assessment shall be made on the total income of each completed previous year included in such period at the rate at which such income would have been charged had it been fully assessed, and as respects the period from the expiry of the last of such completed previous years to the probable date of departure the Income-tax Officer shall estimate the total income of such person during such period and assess it at the rate in force for the financial year in which such assessment is made] :

Provided that nothing herein contained shall authorise an Income-tax Officer to assess any income, profits or gains which have escaped assessment <sup>5</sup>[or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act but] in respect of which he is declared from issuing a notice under section 34.

<sup>2</sup> This clause was substituted for the original third proviso by s. 13, *bid.* This provision seeks to amend the existing third proviso to section 24 (2). This proviso should be read with the first proviso to section 26 (1). The intention was that only the partners who suffered the loss should be allowed to have it set off. The first part of the amendment seeks to give effect to this intention. The last part merely repeats the old proviso.

<sup>3</sup> Sections 24A and 24B were inserted by s. 11 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>4</sup> These words were substituted for the original words by s. 28 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>5</sup> These words were substituted for the words "or have been assessed at too low a rate", *ibid.*



(2) For the purpose of making an assessment under sub-section (1) the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 22, setting forth (along with such other particulars as may be provided for in the notice) his total income for each of the completed previous years <sup>6</sup>[comprised in the relevant period referred to in the first sentence of] sub-section (1) and his estimated total income for the period from the expiry of the last such completed previous year to the probable date of his departure ; and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (1) of section 22.)

<sup>7</sup>[24B. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such person, or any tax which would have been payable by him under this Act if he had not died.

<sup>8</sup>[(2) Where a person dies before the publication of the notice referred to in sub-section (1) of section 22 or before he is served with a notice under sub-section (2) of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee],

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions <sup>9</sup>\* \* \* \* of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer may make an assessment of the total income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may <sup>10</sup>[, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived,] require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person.]

<sup>6</sup> These words were substituted for the words " comprised in the period first referred to in ", *ibid.*

<sup>7</sup> See footnote 3 above.

<sup>8</sup> This sub-section was substituted by s. 29 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>9</sup> The words, brackets and figure " of sub-section (2) " were omitted *ibid.*

<sup>10</sup> These words were inserted *ibid.*

25. (1) Where any business, profession or vocation to which sub-section (3) is not applicable, is discontinued in any year, an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

(3) Where any business, profession or vocation <sup>11</sup>\* \* \* \* \* on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is discontinued, <sup>12</sup>[then, unless there has been a succession by virtue of which the provisions of sub-section (4) have been rendered applicable] no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

<sup>13</sup> [ (4) Where the person who was at the commencement of the Indian Income-tax (Amendment) Act, 1939, carrying on any business, profession or vocation on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is succeeded in such capacity by another person, the change not being merely a change in the constitution of a partnership, no tax shall be payable by the first mentioned person in respect of the income, profits and gains of the period between the end of the previous year and the date of such succession, and such person may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and, if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference:

<sup>11</sup> The words " which was in existence at the commencement of this Act and " were omitted *ibid*.

<sup>12</sup> These words were inserted by s. 30 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

<sup>13</sup> Sub-section (4) and (5) were insterted, *ibid*.

<sup>15</sup> [Provided that sub-sections (3) and (4) shall not apply—

(a) to super-tax except where the income, profits and gains of the business, profession or vocation were assessed to super-tax for the first time either for the year beginning on the 1st day of April, 1920, or for the year beginning on the 1st day of April, 1921 ;

[b) to a business, profession or vocation on which income-tax was at any time charged in the hands of a company under the Indian Income-tax Act, 1886, or on which income-tax would have been charged in the hands of a company for the assessment year ending on the 31st day of March, 1918, if the company having been in existence in that year had also been in existence in the year ending on the 31st day of March, 1917.]

(5) No claim to the relief afforded under sub-section (3) or sub-section (4) shall be entertained unless it is made before the expiry of one year from the date on which the business, profession or vocation was discontinued or the succession took place, as the case may be.]

<sup>16</sup> [(6)] Where an assessment is to be made under <sup>17</sup> [sub-section (1), sub-section (3), or sub-section (4)], the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

<sup>18</sup> [25 A. (1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto <sup>19</sup> [assessed as] undivided that a partition has taken place among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and,

Assessment after partition of a Hindu undivided family.

<sup>15</sup> This proviso was added by s. 14 of the Indian Income tax (Amendment) Act, 1941 (23 of 1941). This proviso seeks to amend sub-sections (3) and (4) of section 25. The purpose of these sub-sections is to provide relief in cases where, but for their provisions, a business, profession or vocation would be assessed for one year more than the period of its existence. In the case of super-tax, however, only business, professions or vocations assessed to super-tax for the first time for the year 1920-21 or the year 1921-22 fall in that category. As regards companies, under the 1886 Act, unlike other assesses, they were not assessed in the first year of their existence. It is only companies assessed for the first time under the 1918 Act, who, but for these provisions, would be assessed to income tax for one year longer than the period of their existence. The amendments seek to withdraw the concessions in those two classes of cases to which the considerations on which the concessions were based did not apply.

<sup>16</sup> The original sub-section (4) was re-numbered (6) by s. 20 of the Indian Income-tax (Amendment) Act, 1931 (7 of 1939).

<sup>17</sup> These words, brackets and figures were substituted for the words brackets and figures "sub-section (1) or sub-section (3)", *ibid*.

<sup>18</sup> This section was inserted by s. 4 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928).

<sup>19</sup> These words were inserted by s. 3 of the Indian Income tax (Second Amendment) Act, 1930 (22 of 1930).



if he is satisfied <sup>20\*</sup> \* that the joint family property has been partitioned among the various members or groups of members in definite portions <sup>21\*</sup> \* he shall record an order to that effect :

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed,<sup>22</sup> [or where any person has succeeded to a business, profession or vocation formerly carried on by a Hindu undivided family whose joint family property has been partitioned on or after the last day on which it carried on such business, profession or vocation,] the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no <sup>23\*</sup> \* partition had taken place, and each member or group of members shall, in addition to any income tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it ; and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23 :

Provided that all the <sup>24</sup> [members and groups of members whose joint family property has been partitioned] shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such:]

<sup>25</sup> [ (3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purpose of this Act, to continue to be a Hindu undivided family.]

<sup>26</sup> [26 (1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, <sup>27</sup> [the assessment shall be made on the firm as constituted] at the time of making the assessment :

Change in  
constitution  
of a firm.

<sup>28</sup> [Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the partners be apportioned between the partners who in such previous year were entitled to receive the same :

20 The words "that a separation of members of the family has taken place and" were omitted by s. 31 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

21 The words "before the end of the previous year" were omitted by s. 3 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

22 These words were inserted by s. 31 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

23 The words "separation or" were omitted by s. 31 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

24 These words were substituted for the words "separated members and groups of members", *ibid.*

25 This sub-section was added by s. 3 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

26 This section was substituted by s. 5 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928).

27 These words were substituted for the original words by s. 32 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

28 These provisos were added, *ibid.*

Provided further that when the tax assessed upon a partner cannot be recovered from him it shall be recovered from the firm as constituted at the time of making the assessment.]

<sup>29</sup>[ (2) Where a person carrying on any business, profession or vocation has been succeeded in such capacity by another person, such person and such other person shall, subject to the provisions of sub-section (4) of section 25, each be assessed in respect of his actual share, if any, of the income, profits and gains of the previous year :

Provided that, when the person succeeded in the business, profession or vocation cannot be found, the assessment of the profits of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.]

<sup>30</sup>[26A (1) Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax.

(2) The application shall be made by such person or persons and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed; and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed.]

27. Where an assessee <sup>31</sup>\* \* within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

Cancellation of assessment when cause is shown.

<sup>29</sup> This sub-section was substituted, *ibid*.

<sup>30</sup> This section was inserted by s. 5 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

<sup>31</sup> The words "or, in the case of a company, the principal officer thereof" were omitted by s. 33 of the Indian Income tax (Amendment) Act 1939 (7 of 1939).

Penalty for concealment of income or improper distribution of profits.

<sup>32</sup>[28. <sup>33</sup>[(1) If the Income-tax, Officer, the Appellate Assistant Commissioner <sup>34</sup>[or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return of his total income which he was required to furnish by notice given under sub-section (1) or sub-section (2) of section 22 or section 34 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or
- (b) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) of section 23, or
- (c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

<sup>35</sup>[he or it may direct] that such person shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not exceeding one and a half times that amount, and in the case referred to in clauses (b) and (c), in addition to any tax payable by him, a sum not exceeding one and a half times the amount of the income-tax and super tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income :

Provided that—

- (a) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees unless he has been served with a notice under sub-section (2) of section 22 ;
- (b) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees ;
- (c) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in British India for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him.]

<sup>32</sup> This section was substituted by s. 6 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

<sup>33</sup> This sub-section was substituted by s. 34 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>34</sup> These words were substituted for the words "or the Commissioner" by s. 86, *ibid.*

<sup>35</sup> These words were substituted for the words "he may direct" by s. 34 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>36</sup>[(d) when the person liable to penalty is a registered firm, or an unregistered firm treated under section 23 (5) (b) as a registered firm, so that the amount of the income-tax and super-tax payable by the firm itself, has not been determined, that amount shall be taken to be an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total income, and, in the cases referred to in clauses (b) and (c), the amount of the income-tax and super-tax which would have been avoided if the income as returned had been accepted as the correct income shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total income and the amount of the tax payable by an unregistered firm on an income equal to the income of the firm as actually returned by the firm.]

(2) If the Income-tax Officer, the <sup>37</sup>[Appellate Assistant Commissioner] <sup>38</sup>[or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, <sup>39</sup>[he or it may direct] that such partner shall, <sup>40</sup>[in addition to the income-tax and super-tax, if any, payable by him] pay by way of penalty a sum <sup>41</sup>[not exceeding one and a half times the amount of income-tax and super-tax] which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(3) No order shall be made under sub-section (1) or sub-section (2) unless the assessee or partner, as the case may be, has been heard, or has been given reasonable opportunity of being heard.

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) An <sup>37</sup>[Appellate Assistant Commissioner] <sup>42</sup>[or the Appellate Tribunal on making] an order under sub-section (1) or sub-section (2), shall forthwith send a copy of the same to the Income-tax Officer].

<sup>36</sup> This clause was added by s. 8 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

<sup>37</sup> These words were substituted for the words "Assistant Commissioner" by s. 34 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>38</sup> These words were substituted for the words "or the Commissioner" by s. 86, *ibid.*

<sup>39</sup> These words were substituted for the words "he may direct", *ibid.*

<sup>40</sup> These words were substituted for the words "in addition to the income-tax payable by him", by s. 34, *ibid.*

<sup>41</sup> These words were substituted for the words "not exceeding the amount of income-tax", *ibid.*

<sup>42</sup> These words were substituted for the words "or a Commissioner, who has made" by s. 86, *ibid.*

<sup>43</sup>[(6) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner.]

<sup>44</sup>[29. When any tax, penalty <sup>44a</sup>[or interest] is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such tax, penalty or interest a notice of demand in the prescribed form specifying the sum so payable.]

30. (1) Any assessee objecting to the amount <sup>45</sup>[of income assessed under section 23 or section 27, or the amount of loss computed under section 24 or the amount of tax determined under section 23 or section 27], or denying his liability to be assessed under this Act or objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (4) of sections 23 or to a refusal to register a firm under sub-section (4) of section 23 or section 26A to make a fresh assessment under section 27, or <sup>46</sup>[objecting) to any order <sup>47</sup>\* \* \* \* under sub-section (2) of section 25 <sup>48</sup>[or section 25A <sup>49</sup>[or ]sub-section (2) of section (2) of section 26] or section 28, made by an Income-tax Officer <sup>50</sup>[or objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) of section 44F, or sub-section (i) of section 46 or objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48, 49 or 49F, or to the amount of the refund allowed by the Income-tax Officer under any of those sections, and any assessee, being a company objecting to an order made by an Income-tax Officer under sub-section (1) of section 23A], may appeal to the <sup>51</sup>[Appellate Assistant Commissioner] against the assessment or against such refusal or order :

<sup>52</sup>[Provided that no appeal shall lie against an order under sub-section (1) of section 46 unless the tax has been paid :

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but in respect of matters which

<sup>43</sup> This sub-section was added by s. 34, *ibid.*

<sup>44</sup> This section was substituted by s. 35, *ibid.*

<sup>44A</sup> These words were added by the Amendment Act of 1944.

<sup>45</sup> These words and figures were substituted for the words and figures "or rate at which he is assessed under section 23 or section 27" by s. 36 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>46</sup> This word was inserted by s. 36 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>47</sup> The words "against him" were omitted, *ibid.*

<sup>48</sup> These words, figures and letter were inserted by s. 4 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>49</sup> These words, brackets and figures were inserted by s. 36 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>50</sup> These words, brackets, figures and letters were inserted, *ibid.*

<sup>51</sup> These words were substituted for the words "Assistant Commissioner", *ibid.*

are determined by such order may not appeal against the assessment of his own total income :

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income-tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income.]

<sup>53</sup> [(1A) Any person, having in accordance with the provisions of sub-sections (3A), (3B) or (3C) of section 18, read with sub-section (6) of that section, deducted and paid tax in respect of any sum chargeable under this Act other than interest who denies his liability to make such deduction may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction.

(2) The appeal shall ordinarily be presented within thirty days <sup>53a</sup> [of the payment of the tax deducted under sub-section (3A), (3 B) or (3C) of section 18 or of] receipt of the notice of demand relating to the assessment or penalty objected to <sup>54</sup> [or of the order in writing notifying the amount of total income on which the determination under sub-section (5) of section 23 was based and the apportionment thereof between the several partners or of the loss computed under section 24] <sup>55</sup> [or of the intimation of the refusal <sup>56</sup> [to pass an order under sub-section (1) of section 23A, or ] to register a firm under section 26A] or of the date of the refusal to make a fresh assessment under section 27, <sup>57</sup> [or of the intimation of an order under sub-section (1) of section 23A or under section 48, 49 or 49F], as the case may be; but the [<sup>58</sup>Appellate Assistant Commissioner] may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

31. (1) The <sup>59</sup>[Appellate Assistant Commissioner] shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(2) The <sup>59</sup>[Appellate Assistant Commissioner] may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer.

<sup>60</sup>[(2A) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate

<sup>52</sup> These provisos were substituted, *ibid.*

<sup>53</sup> This sub-section has been added by the Amendment Act of 1944.

<sup>53a.</sup> This expression was added by the Amendment Act of 1944.

<sup>54</sup> These words were inserted by s. 15 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). Cf footnote under s. 23 (6) *supra*.

<sup>55</sup> These words were inserted by s. 12 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>56</sup> These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1937 (20 of 1937).

<sup>57</sup> These words, letters and figures were inserted by s. 36 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>58</sup> These words were substituted for the words " Assistant Commissioner " by s. 37, *ibid.*

<sup>59</sup> These words were substituted for the words " Assistant Commissioner " by s. 37 of the Indian Income-tax Amendment) Act, 1939 (7 of 1939).

<sup>60</sup> This sub-section was inserted, *ibid.*



Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.]

(3) In disposing of an appeal the <sup>59</sup>[Appellate Assistant Commissioner] may, in the case of an order of assessment,—

(a) confirm, reduce, enhance or annul the assessment,  
<sup>61</sup> [\* \* \* \* or

(b) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the <sup>59</sup>[Appellate Assistant Commissioner] may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment <sup>62</sup>[and determine where necessary the amount of tax payable on the basis of such fresh assessment],

<sup>63</sup>[or in the case of an order cancelling the registration of a firm under sub-section (4) of section 23, or refusing to register a firm under sub-section (4) of sub-section 23 or section 26 A] or ] to make a fresh assessment under section 27,

(c) confirm such order, or cancel it and direct the Income-tax Officer <sup>65</sup>[to register the firm or to make a fresh assessment, as the case may be] ],

or, in the case of an order under sub-section (2) of <sup>66</sup>[section 25 or sub-section (1) of section 23 A, or sub-section (2) of section 26 or section 48, 49 or 49F],

<sup>67</sup>[ (d) ] confirm, cancel or vary such order,

<sup>63</sup>[or, in the case of an order under sub section (1) of section 25A,

(e) confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of section 25A,

<sup>61</sup> The words “and, in the case of an assessment on a firm or association of persons, authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association” were omitted by s. 16 of the Indian Income tax (Amendment) Act, 1941, (23 of 1941). Previous to this amendment it was only in cases where the assessment on a firm or association is confirmed, reduced, enhanced or, annulled that the Income-tax Officer could be authorized to amend accordingly the assessments of the partners or members. The provision for consequential amendment of assessments in sub-section (3) (a) has been deleted and a general authorization has been added to amend the assessments of partners or members which will apply to the whole section.

<sup>62</sup> These words were added by s. 16 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941).

<sup>63</sup> These words were inserted by the Amendment Act of 1944.

<sup>65</sup> These words were substituted for the words “to make a fresh assessment,” *ibid*.

<sup>66</sup> These words, figures, brackets and letter were substituted for the words and figures “section 25 or section 28” by s. 32 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>67</sup> Clause (c) was relettered clause (d) by s. 5 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>68</sup> These words and clause were inserted by s. 37 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>68</sup> A. This Clause was added by the Amendment Act of 1944.

or, in the case of an order under section 28 or sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46,

(f) confirm or cancel such order or vary it so as either to enhance or reduce the penalty ;

or, in the case of an appeal against a computation of loss under section 24,

(g) confirm or vary such computation] :

<sup>68A</sup> or in the case of an appeal under Sub section (1A) of section 30.

(h) decide that the person is or is not liable to make the deduction and in latter case direct the refund of the sum paid under sub-section (16) of Section 18 ]

Provided that the <sup>69</sup>[Appellate Assistant Commissioner] shall not enhance an assessment <sup>70</sup>[or a penalty] unless the appellant has had a reasonable opportunity of showing cause against such enhancement :

<sup>71</sup>[Provided further that at the hearing of any appeal against an order of an Income-tax Officer the Income-tax Officer shall have the right to be heard either in person or by a representative.]

<sup>72</sup>[ (4) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Assistant Commissioner may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.]

<sup>72A</sup> [ (5) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made the Appellate Tribunal may authorise the Income-Tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.]

(6) The Appellate Assistant Commissioner shall, on the conclusion of the appeal, communicate the orders passed by him to the assessee and to the Commissioner.

32. [Omitted by s. 87 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).]

<sup>73</sup> [33. (1) Any assessee objecting to an order passed by an Appeals Appellate Assistant Commissioner under section 28 against orders of Appellate Assistant Commissioner. or section 31 may appeal to the Appellate Tribunal within sixty days of the date <sup>74</sup> [on which such order is communicated to him.]

<sup>68-A</sup> This Clause was added by the Amendment Act of 1944.

<sup>69</sup> These words were substituted for the words "Assistant Commissioner" *ibid*

<sup>70</sup> These words were inserted, *ibid*.

<sup>71</sup> This proviso was added, *ibid*.

<sup>72</sup> Sub-sections (4) and (5) were added by s. 16 of the Indian Income tax (Amendment) Act, 1941 (23 of 1941).

<sup>72-A</sup> This sub-section has been added by the Act of 1944

<sup>73</sup> This section was substituted for the original section by s. 88 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>74</sup> These words were substituted for the words "on which he is served with notice of such order" by s. 17 of Indian Income-tax (Amendment) Act, 1941 (23 of 1941).



(2) The Commissioner may, if he objects to any order passed, by an Appellate Assistant Commissioner under section 31, direct the Income-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made <sup>75</sup>[within sixty days of the date on which the order is communicated to the Commissioner by the Appellate Assistant Commissioner.]

<sup>76</sup> [(2A) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.]

(3) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees.

(4) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner.

(5) Save as provided in section 66 orders passed by the Appellate Tribunal on appeal shall be final.]

<sup>77</sup>[33A. (1) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit:

Power of  
Revision by  
Commissioner

Provided that the Commissioner shall not revise any order under this sub-section if—

- (a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired, or
- (b) the order is pending on an appeal before the Appellate Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal, or
- (c) the order has been made more than one year previously.

<sup>75</sup> These words were substituted for the words "at any time before the expiry of sixty days from the date of the order" by s. 17, *ibid.* Its object is to make the time limit for filing an appeal the same for the Commissioner as it is for the assessee.

<sup>76</sup> Sub-section (2-A) was added by s. 17, *ibid.* Its object is to give the power to the Tribunal which the Appellate Assistant Commissioner is given by section 30 (2) to condone delay in filing an appeal.

<sup>77</sup> This section has been newly inserted by s. 18 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). It seeks to restore the Commissioner's powers of revision which were taken away by the Income-tax (Amendment) Act, 1939. There was a widespread demand for the restoration of these powers. While Government were prepared to accede to this demand, they were unwilling to allow the unrestricted right of application to the Commissioner which existed before 1939. Hence a fee of Rs. 25 for such application is prescribed. It is specifically provided that the Commissioner may not pass any order prejudicial to an assessee.

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order, call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit :

Provided that the Commissioner shall not revise any order under this sub-section if—

- (a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or
- (b) where an appeal against the order has been made to the Appellate Assistant Commissioner, the appeal is pending before the Appellate Assistant Commissioner, or
- (c) the order has been made the subject of an appeal to the Appellate Tribunal :

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(3) Every application by an assessee under sub-section (2) shall be accompanied by a fee of twenty-five rupees.]

34. <sup>78</sup>[ (1) ] If <sup>79</sup>[in consequence of definite information which  
Income  
escaping  
assessment. has come into his possession, the Income-tax Officer  
discovers that] income, profits or gains chargeable to  
income-tax <sup>80</sup>[have escaped assessment in any year,  
or have been under-assessed, or have been assessed at too low a rate,  
or have been the subject of excessive relief under this Act] the  
Income-tax Officer may, <sup>81</sup>[in any case in which he has reason to  
believe that the assessee has concealed the particulars of his income  
or deliberately furnished inaccurate particulars thereof at any time  
within eight years, and in any other case at any time within four  
years] of the end of that year, serve on the person liable to pay tax  
on such income, profits or gains, or, in the case of a company, on the  
principal officer thereof, a notice containing all or any of the require-  
ments which may be included in a notice under sub-section (2) of  
section 22, and may proceed to assess or re-assess such income, profits  
or gains, and the provisions of this Act shall, so far as may be, apply  
accordingly as if the notice were a notice issued under that sub-  
section :

<sup>78</sup> The original section 34 was re-numbered sub-section (1) by s. 41 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>79</sup> These words were substituted for the words "for any reason", *ibid.*

<sup>80</sup> These words were substituted for the words "has escaped assessment in any year, or has been assessed at too low a rate." *ibid.*

<sup>81</sup> These words were substituted for the words "at any time within one year", *ibid.*

Provided that the tax shall be charged at the rate at which it would have been charged had the income, profits or gains not escaped assessment, or full assessment, as the case may be :

<sup>82</sup>[Provided further that when the income, profits or gains concerned are income, profits or gains liable to assessment for a year ending prior to the commencement of the Indian Income-tax (Amendment) Act, 1939, or where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person under section 43, this sub-section shall have effect as if for the periods of eight years and four years a period of one year were substituted.]

<sup>83</sup>[ (2) No order of assessment under section 23 or of assessment<sup>t</sup> or re-assessment under sub-section (1) of this section shall be made<sup>c</sup> after the expiry, in any case to which clause (c) of sub-section (1) of section 28 applies, of eight years, and in any other case, of four years from the end of the year in which the income, profits or gains were first assessable ] :

<sup>84</sup> [Provided that nothing contained in this sub-section shall<sup>l</sup> apply to a re-assessment made in pursuance of an order under section 31, section 33, section 66, or section 66A.

35. (1) <sup>85</sup>[The Commissioner] or <sup>86</sup>[Appellate Assistant Commissioner, may, at any time <sup>87</sup>[within four years] from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under <sup>88</sup>[section 33A] and the Income-tax Officer may, at any time <sup>87</sup>[within four years] from the date of any <sup>89</sup>[assessment order] <sup>90</sup>[or refund order] passed by him on his own motion rectify any mistake apparent from the record <sup>91</sup>[of the appeal], revision, <sup>92</sup>[assessment or refund] as the case may be, and shall

<sup>82</sup> This proviso was added by s. 41, *ibid.*

<sup>83</sup> This sub-section was added by s. 41 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>84</sup> This proviso was added by s. 19 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). It seeks to amend section 34 (2) which fixes time limits for completing assessments. The departmental view is that these limits do not apply to reassessments made in pursuance of an order under section 31, 33, 36 or 66A and the amendment seeks to give effect to this view. In cases of orders under these sections it is frequently impossible to make reassessments within the time limits prescribed. It may be several years, for example, before a Privy Council appeal is decided.

<sup>85</sup> These words were inserted by s. 6 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928).

<sup>86</sup> These words were substituted for the words "Assistant Commissioner" by s. 42 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>87</sup> These words were substituted for the words "within one year", *ibid.*

<sup>88</sup> This word, figure and letter were substituted for the word, letter and figure "Section 33" by s. 20 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941).

<sup>89</sup> These words were substituted for the words "demand made upon an assessee", *ibid.*

<sup>90</sup> These words were inserted by s. 3 of the Income-tax Law (Amendment) Act, 1940 (12 of 1940).

<sup>91</sup> These words were substituted for the words "of the assessment" by s. 6 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928).

<sup>92</sup> These words were substituted for the words "or assessment" by s. 3 of the Income-tax (Amendment) Act, 1940 (12 of 1940).

within the like period rectify any such mistake which has been<sup>93</sup>[brought to his notice by an assessee] :

Provided that no such rectification shall be made, having the effect of enhancing an assessment<sup>94</sup>[or reducing a refund] unless<sup>95</sup>[the Commissioner], the<sup>96</sup>[Appellate Assistant Commissioner] or the Income-tax Officer, as the case may be], has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard :

<sup>96</sup>[Provided further that no such rectification shall be made of any mistake in any order passed more than one year before the commencement of the Indian Income-tax (Amendment) Act, 1939].

<sup>96</sup>[(2) The provisions of sub-section (1) apply also in like manner to the rectification of mistakes by the Appellate Tribunal]

<sup>97</sup>[(3)] Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

<sup>97</sup>[(4)] Where any such rectification has the effect of enhancing the assessment, <sup>98</sup>[or reducing a refund] the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly.

86. Tax to be calculated to nearest anna.	In the determination of the amount of tax or of a refund payable under this Act, fraction of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.
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37. Power to take evidence on oath, etc.	The Income-tax Officer, <sup>99</sup> [Appellate Assistant Commissioner], <sup>1</sup> [Commissioner and Appellate Tribunal] shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—
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- (a) enforcing the attendance of any person and examining him on oath or affirmation ;
  - (b) compelling the production of document ; and
  - (c) issuing commission for the examination of witnesses
- and any proceeding before an Income-tax Officer, <sup>99</sup>[Appellate

<sup>93</sup> These words were substituted for the words "brought to his notice by the assessee" by s. 42 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>94</sup> These words were inserted by s. 3 of the Indian Income-tax (Amendment) Act, 1940 (12 of 1940).

<sup>95</sup> This proviso was added by s. 42 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>96</sup> This sub-section was inserted by s. 89, *ibid.*

<sup>97</sup> The original sub-sections (2) and (3) were re-numbered, *ibid.*

<sup>98</sup> These words were inserted by s. 3 of the Indian Income-tax (Amendment) Act, 1940 (12 of 1940).

<sup>99</sup> These words were substituted for the words "Assistant Commissioner" by s. 43 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>1</sup> These words were substituted for the words "and Commissioner" by s. 90, *ibid.*

Assistant Commissioner], <sup>2</sup>[Commissioner or Appellate Tribunal] under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 <sup>3</sup>[and for the purposes of section 196] of the Indian Penal Code.

Power to call for information. 38. The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

- (1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses ;
- (2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses.
- <sup>4</sup>[(3) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head 'Salaries', amounting to more than four hundred rupees, together with particulars of all such payments made.]

39. The Income-tax Officer or Assistant Commissioner, or any persons authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner may inspect the register of members of any company. inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

## CHAPTER V.

### LIABILITY IN SPECIAL CASES.

<sup>1</sup>[40. (1) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub-section included in the term "beneficiary") is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of

<sup>2</sup> These words were substituted for the words "or Commissioner" by s. 90 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>3</sup> These words and figures were inserted by s. 6 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>4</sup> This clause was substituted by s. 44 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>1</sup> This section has been substituted for the original section by s. 22 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). When the Act was amended in 1939 and a higher rate of tax was imposed on non-residents than on residents (cf. s. 17, *supra*), section 40, which prescribes that tax on a non-resident beneficiary's agent should be recoverable to the same amount as it would be recoverable from the beneficiary if resident in British India, was overlooked. It is now intended to put this right and at the same time opportunity is taken to recast the section so as to make its meaning clearer.

any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian or trustee, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age or sound mind and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

(2) Where the trustee or agent of any person not resident in British India and not being a minor, lunatic or idiot (such person being hereinafter in this sub-section referred to as a beneficiary) is entitled to receive on behalf of such beneficiary or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax, if not levied on the beneficiary direct, may be levied upon and recovered from such trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the beneficiary if in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.]

41. <sup>2</sup>[ (1) ] In the case of income, profits or gains chargeable under this Act which <sup>3</sup>\* \* \* \* the Courts of  
Courts of Wards, etc. Wards, the Administrators-General, the Official Trustees or <sup>4</sup>\* \* \* \* any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, <sup>5</sup>[or any trustee or trustees] <sup>6</sup>[appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise] (including the trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), are entitled to receive on behalf of any person the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager <sup>5</sup>[or trustee or trustees], in the like manner and to the same amount as it would be leviable upon and recoverable from <sup>7</sup>[the person on whose behalf such income, profits or gains are receivable], and all the provisions of this Act shall apply accordingly :

<sup>8</sup>[Provided that where any such income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf

2 The original section 41 was re-numbered sub-section (1) by s. 46, of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

3 The words "are received by" were omitted, *ibid*.

4 The word "by" was omitted, *ibid*.

5 These words were inserted, *ibid*.

6 These words were substituted for the words "appointed under a duly executed trust deed" by s. 22 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). The words in the old section 41 "appointed under a duly executed trust deed" did not cover trusts created by will. There is no reason why such trusts should be excluded. Moreover, in India where the statutes usually speak of instruments—not deeds (under seal), it is not appropriate to use the word "deed" in this connexion. It is proposed therefore to adopt a more suitable form of words and to provide for trusts created by will.

7 These words were substituted for the words "any person on whose behalf such income, profits or gains are received," by s. 46 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

8 These provisos were added by s. 46 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).



they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate :

Provided further that when part only of the income, profits and gains of a trust is chargeable under this Act, that proportion only of the income, profits and gains receivable by a beneficiary from the trust which the part so chargeable bears to the whole income, profits and gains of the trust shall be deemed to have been derived from that part.]

<sup>9</sup>[ (2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf income, profits or gains therein referred to are receivable, or the recovery from such persons of the tax payable in respect of such income, profits or gains.]

42. (1) <sup>10</sup>[All income, profits or gains accruing or arising],  
Non-residents. whether directly or indirectly, through or from any business connection <sup>11</sup>[in British India, or through or from any property in British India, or through or from any asset or source of income in British India, or through or from any money lent at interest and brought into British India in cash or in kind], shall be deemed to be income accruing or arising within British India, and <sup>12</sup>[where the person entitled to the income, profits or gains is not resident in British India, shall be chargeable to income-tax either in his name or in the name of his agent, and in the latter case] such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax :

<sup>13</sup>[Provided that where the person entitled to the income, profits or gains is not resident in British India, the income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that] any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come within British India :

<sup>14</sup>[Provided further that any such agent, or any person who apprehends that he may be assessed as such an agent, may retain out of any money payable by him to such non-resident person a sum equal to his estimated liability under this sub-section, and in the event of any disagreement between the non-resident person and such agent or person as to the amount to be so retained, such agent or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount :

Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount

<sup>9</sup> This sub-section was added, *ibid*.

<sup>10</sup> These words were substituted for the original words by s. 47 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>11</sup> These words were substituted for the words "or property in British India," *ibid*.

<sup>12</sup> These words were substituted for the original words, *ibid*.

<sup>13</sup> These words were substituted for the words "Provided that", *ibid*

<sup>14</sup> These provisos were added by s. 47 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).



specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non-resident person ]

(2) Where a person not resident <sup>15</sup>[or not ordinarily resident] in British India, <sup>16</sup>\* \* \* carries on business with a person resident in British India, and it appears to the Income-tax Officer, <sup>17</sup>\* \* \* that owing to the close connection <sup>18</sup>[between such persons the course of business is so arranged that the business done by the resident person with the person not resident or not ordinarily resident] produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

<sup>19</sup>[(3) In the case of a business of which all the operations are not carried out in British India, the profits and gains of the business deemed under this section to accrue or arise in British India shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in British India ]

43. Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent :

Agent to  
include persons  
treated as  
such.

<sup>20</sup>[Provided that where transactions are carried on in the ordinary course of business through a broker in British India in such circumstances that the broker does not in respect of such transaction deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first mentioned broker shall not be deemed to be an agent under this section in respect of such transactions] :

Provided <sup>21</sup>[further] that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

<sup>15</sup> These words were inserted, *ibid.*

<sup>16</sup> Certain words were omitted, *ibid.*

<sup>17</sup> The words "or the Assistant Commissioner, as the case may be" were omitted, *ibid.*

<sup>18</sup> These words were substituted for original words, *ibid.*

<sup>19</sup> This sub-section was substituted by s. 47 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>20</sup> This proviso was inserted by s. 48, *ibid.*

<sup>21</sup> This word was inserted, *ibid.*

<sup>2</sup>-[44. Where any business, profession or vocation carried on by a firm or association of persons has been discontinued, or where an association of persons is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or a member of such association shall, in respect of the income, profits and gains of the firm or association, be jointly and severally liable to assessment under Chapter IV and for the amount of tax payable and all the provisions of Chapter IV shall, so far as may be, apply to any such assessment ]

Liability in case of a discontinued firm or association

## <sup>1</sup>[CHAPTER VA.

### SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

44A. The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

Liability to tax of occasional shipping.

44B. (1) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

Return of profits and gains.

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (1), and for this purpose may call for such accounts or documents as he may require, and one-twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, livestock and goods shipped at the port.

(3) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

44C. Nothing in this Chapter shall be deemed to prevent a principal from claiming, <sup>2</sup>[in the year] following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his

Adjustment.

<sup>22</sup> This section was substituted by s 49, *ibid*.

<sup>1</sup> Chapter VA was inserted by s 3 of the Indian Income-tax (Further Amendment) Act, 1923 (27 of 1923).

<sup>2</sup> These words were substituted for the words "in any year" by s. 50 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

total income in the previous year, and that tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be.]

## <sup>1</sup>[CHAPTER VB.

### SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER-TAX.

**44D.** (1) Where any person has, by means of a transfer of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations any income which if it were the income of such person would be chargeable to income-tax becomes payable to a person not resident or to a person resident but not ordinarily resident in British India, acquired any rights by virtue or in consequence of which he has within the meaning of this section power to enjoy such income, whether forthwith or in the future, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of such first mentioned person for all the purposes of this Act.

(2) Where any person receives or is entitled to receive, whether before or after any transfer of assets by virtue or in consequence whereof either alone or in conjunction with associated operations any income becomes payable to a person not resident or resident but not ordinarily resident in British India, any sum paid, or payable by way of a loan or repayment of a loan or any other sum, being a sum which is not paid or payable for full consideration in money or money's worth, paid or payable otherwise than as income, such income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section be deemed to be the income of the first-mentioned person for all the purposes of this Act.

(3) Sub-sections (1) and (2) shall not apply if such first-mentioned person shows to the satisfaction of the Income-tax Officer either—

- (a) that neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation ; or
- (b) that the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

<sup>1</sup> Chapter VB was inserted by s. 51 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

(4) For the purposes of this section, an 'associated operation' means, in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing whether directly or indirectly any of the assets transferred, or to the income arising from any such assets, or to any assets representing whether directly or indirectly the accumulations of income arising from any such assets.

(5) A person shall, for the purposes of this section, be deemed to have power to enjoy income of a person not resident, or resident but not ordinarily resident, in British India, if—

- (a) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person; or
- (b) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or
- (c) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and on any assets which represent that income, or
- (d) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or
- (e) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, so control the application of the income.

(6) In determining whether a person has power to enjoy income within the meaning of this section, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(7) For the purposes of this section—

- (a) the expression 'assets' includes property or rights of any kind, and the expression 'transfer' in relation to rights includes the creation of those rights ;
- (b) the expression 'benefit' includes a payment of any kind ;
- (c) references to income of a person not resident or of a person not ordinarily resident in British India shall, where the amount of the income of a company for any year or period has been deemed to have been distributed under sub-section (1) of section 23A, include references to so much of the income of the company for

that year or period as is equal to the amount deemed to have been distributed to that person ;

(d) references to assets representing any assets, income or accumulations of income include references to shares in or obligations of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred ;

(e) any body corporate incorporated outside British India shall be treated as if it were resident out of British India whether it is so resident or not.

(8) The provisions of this section shall apply for the purposes of assessment to income-tax and super-tax for the year ending on the 31st day of March 1940, and subsequent years, and shall apply, in relation to transfers of assets and associated operations whether carried out before or after the commencement of the Indian Income-tax (Amendment) Act, 1939.

(9) Where any person has been charged to tax on any income deemed to be his under the provisions of this section, and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

**44E.** (1) Where the owner of any securities (in this sub-section Avoidance of tax by certain transactions in securities. and in sub-section (2) referred to as the owner, agrees to sell or transfer those securities, and by the same or any collateral agreement—

- (a) agrees to buy back or re-acquire the securities, or
- (b) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of this Act to be the income of the owner and not to be the income of any other person.

(2) The references in sub-section (1) to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so however, that, where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired.

(3) Where any person carrying on a business which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—

- (a) agrees to sell back or re-transfer the securities, or
- (b) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by him, no account

shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business.

(4) Sub-section (3) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.

(5) For the purpose of this section—

- (a) the expression 'interest' includes a dividend ;
- (b) the expression 'securities' includes stocks and shares ;
- (c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(6) The Income-tax Officer may by notice in writing require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities ; and, if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding five hundred rupees and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

**44F.** (1) Any person upon whom notice is served by the Income-tax Officer requiring him to furnish a statement of particulars relating to any securities in which, at any time during the period specified in the notice he has had any beneficial interest, and in respect of which, within such period, either no income was received by him, or the income received by him was less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, shall, whether an assessment to income-tax or super-tax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice.

(2) If it appears to the Income-tax Officer by reference to all the circumstances in relation to the securities of any such person (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers, or any other transactions relating to such securities) that such person has thereby avoided or would avoid more than ten per cent. of the amount of the income-tax or super-tax for any year which would have been payable in his case in respect of the income from those securities if the income had

Avoidance of  
tax by sales  
*cum* dividend.



been deemed to accrue from day to day and had been apportioned accordingly, and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of income-tax or super-tax, then those securities shall be deemed to be securities to which sub-section (3) applies.

(3) For the purposes of assessment to income-tax or super-tax in the case of any such person, the income from any securities to which this sub-section applies shall be deemed to accrue from day to day, and in the case of the sale or transfer of any such securities by or to him shall be deemed to have been received as and when it is deemed to have accrued :

Provided that this section shall not apply if such person proves to the satisfaction of the Income-tax Officer that the avoidance of income-tax or super-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any such avoidance of income-tax or super-tax, or that the provisions of section 44E have been applied in his case in respect of such income.

(4) If any person fails to furnish any statement or particulars required under this section, or if the Income-tax Officer is not satisfied with any statement or particulars furnished under this section, the Income-tax Officer may make an estimate of the amount of the income which, under the foregoing provisions of this section, is to be deemed to form part of the person's total income for the purposes of income-tax or super-tax.

(5) If any person without reasonable excuse fails to furnish any statement or particulars required under this section, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

(6) For the purpose of this section the expression 'securities' includes stocks and shares

## CHAPTER VI

### RECOVERY OF TAX AND PENALTIES

45. Any amount specified as payable in a notice of demand  
Tax when
payable.
<sup>1, 2</sup>[under sub-section (3) ] of section 23A or] under  
 section 29 or in an order under section 31 <sup>3</sup>\* \* \* or  
 section 33, shall be paid within the time, at the place  
 and to the person mentioned in the notice or order, or if a time is not  
 so mentioned, then on or before the first day of the second month  
 following the date of the service of the notice or order, and any

<sup>1</sup> The original words were inserted by s. 8 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>2</sup> These words, brackets and figures were substituted for the words, bracket and figure "under sub-section (4), by s. 52 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>3</sup> The words "or section 32" were omitted by s. 23 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). This is consequential on the omission of s. 32 by Act 7 of 1939.



assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30<sup>4</sup> \* \* \*, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of :

<sup>5</sup>[Provided further that where an assessee has been assessed in respect of income arising outside British India in a country the laws of which prohibit or restrict the remittance of money to British India, the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which by reason of such prohibition or restriction cannot be brought into British India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

*Explanation.*—For the purposes of this section income shall be deemed to have been brought into British India if it has been utilized or could have been utilized for the purposes of any expenditure actually incurred by the assessee without British India or if the income whether capitalized or not has been brought into British India in any form.]

46. (1) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

<sup>6</sup>[(1A) For the purposes of sub-section (1), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however, that the total sum so directed to be recovered shall not exceed the amount, of the arrears payable.]

(2) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue :

<sup>7</sup>[Provided that without prejudice to any other powers of the Collector in this behalf, he shall, for the purpose of recovering the said amount, have<sup>8</sup> \* \* \* \* the powers which under the Code

<sup>4</sup> The words, figures and letter "or under section 33A" were omitted by s. 52 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>5</sup> This proviso and explanation were added by s. 52 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>6</sup> This sub-section was inserted by s. 8 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928).

<sup>7</sup> This proviso was added by s. 16 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>8</sup> The words "in respect of the attachment and sale of debts due to the assessee" were omitted by s. 24 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941).

of Civil Procedure, 1908, a Civil Court has <sup>9</sup>\* \* \* \* for the purpose of the recovery of an amount due under a decree.]

(3) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process.

(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (3).

(5) If any assessee is in receipt of any income chargeable under the head "Salaries," ~~the~~ Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sum so deducted to the credit of the <sup>10</sup>[Central Government], or as the <sup>11</sup>[Central Board of Revenue] directs.

<sup>12</sup>[ (6) If the recovery of income-tax in any area has been entrusted to a Provincial Government under section 124 (1) of the Government of India Act, 1935, the Provincial Government may direct with respect to that area or any part thereof, that income-tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.]

(7) Save in accordance with the provisions of sub-section (1) of section 42, <sup>13</sup>[or of the proviso to section 45], no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of <sup>14</sup>[the financial year] in which any demand is made under this Act :

9 The words "in respect of the attachment and sale of debts due to a judgment-debtor" were omitted, *ibid.* It has been found in practice that the Collector's powers of recovering Income-tax demands is inadequate. Hence this amendment the effect of which would be that the Collector would have for the purpose of covering the tax the powers which under the Civil Procedure Code a Civil Court has for the purpose of the recovery of an amount due under a decree.

10 These words were substituted for the words "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

11 These words were substituted for the words "Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of

12 This sub-section was substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.

13 These words were inserted by s. 53 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

These words were substituted for the words "the year", *ibid.*

<sup>15</sup>[Provided that where the sum payable is allowed to be paid by instalments the period of one year herein referred to shall be reckoned from the date on which the last of such instalments was due.]

47. Any sum imposed by way of penalty under the provisions of sub-section (2) of section 25, section 28, <sup>16</sup>[sub-section (6) of section 44E, sub-section (5) of section 44F] or sub-section (1) of section 46, <sup>16</sup>[and any interest payable under the provisions of sub-sections (4), (6), (7) or (8) of Section 18A.] shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

## CHAPTER VII.

### REFUNDS.

<sup>1</sup>[48 (1) If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income-tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

(2) <sup>2</sup>[The Appellate Assistant Commissioner or the Appellate Tribunal in the exercise of their appellate powers] if satisfied to the like effect shall cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where income of one person is included under any provision of this Act in the total income of any other person such other person only shall be entitled to a refund under this section in respect of such income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939, which he would not be entitled to claim but for the passing of that Act.]

48A. *[Repealed by Act 7 of 1939, section 58.]*

<sup>15</sup> This was added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). The time limit for initiating recovery proceedings laid down in section 46 (7) gives rise to practical difficulties where the Income-tax Officer at the request of the assessee allows him to pay tax in instalments. Some of these instalments may not be due until after the time limit has expired. The amendment is designed to provide for such cases.

<sup>16</sup> These words, letters, figures and brackets were inserted by s. 54, of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

16A. These words and figures were added by the Act of 1941.

<sup>1</sup> This section was substituted by s. 55 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>3</sup> These words were substituted for the original words by s. 91, *ibid*,

49. (1) If any person who has paid <sup>3</sup>[by deduction under section 18 or otherwise] Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid <sup>4</sup>[by deduction or otherwise] United Kingdom income-tax <sup>5</sup>[for the corresponding year] in respect of the same part of his income and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax <sup>6</sup>[or the appropriate rate of United Kingdom income-tax, whichever is less,] and the rate at which he was entitled to, and obtained relief under that section :

<sup>7</sup>[Provided that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief]

(2) In sub-section (1)—

(a) the expression “Indian income-tax” means income-tax and super-tax charged in accordance with the provisions of this Act ;

<sup>8</sup>[(b) the expression “Indian rate of tax” means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under the other provisions of this Act but before deduction of any relief due to him under this section, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of this Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under this section divided by his total income ;]

(c) the expression “United Kingdom income-tax” means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts,

<sup>9</sup>[(d) the expression “appropriate rate of United Kingdom income-tax” has the meaning assigned to that expression in section 27 of the Finance Act, 1920, as amended by the Finance Act, 1927.]

<sup>3</sup> These words and figures were inserted by s. 57 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

<sup>4</sup> These words were inserted, *ibid.*

<sup>5</sup> These words were substituted for the words “for that year”, *ibid.*

<sup>6</sup> These words were inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1934 (29 of 1934).

<sup>7</sup> This proviso was added by s. 57 of the Indian Income-tax (Amendment) Act) 1939 (7 of 1939).

<sup>8</sup> This clause was substituted by s. 57 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>9</sup> This clause was added by s. 2 of the Indian Income-tax (Amendment) Act, 1934 (29 of 1934).

<sup>10</sup>[49A. (1) The Central Government may, by notification in the official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act and Dominion income-tax.

Relief in respect of Indian State and Dominion income-tax,

(2) For the purposes of this section "Dominion income-tax" means any income-tax or super tax charged under any law in force in any Indian State or in any part of His Majesty's Dominions (other than the United Kingdom) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section.

<sup>11</sup>[49B. Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to any of the persons specified in section 3 who is a shareholder of a company which is assessed to income-tax in British India or elsewhere, such person shall be deemed in respect of such dividend himself to have paid income-tax (exclusive of super-tax) at the rate applicable to the total income of a company for the financial year in which the dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company is liable to pay income-tax bears to the whole income of the company.

Income-tax on Company's dividend deemed to have been paid by shareholder.

49C. <sup>12</sup>[(1) Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to a shareholder of a company which has obtained the relief referred to in section 49 or granted under section 49A or under the India and Burma (Income-tax Relief) Order, 1936, the shareholder shall be deemed in respect of such dividend himself to have obtained such relief at the rate at which such relief has been granted in respect of income-tax only to the company for the financial year preceding the year in which the dividend was paid, credited or distributed or is deemed to have been paid, credited or distributed.]

Relief granted to a company to be deemed relief granted to shareholder.

<sup>10</sup> Sections 49A to 49D were inserted by s. 58 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>11</sup> This section has been substituted for the old s. 49B by s. 25 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). Its object is to remedy certain defects in the old section and to clarify its language. The wording of old s. 49B was open to two objections: (a) a company does not pay tax on its dividends, and (b) the section conflicts with section 16 (2) which grosses up a dividend at a particular rate which may not be the rate at which the company paid tax on the profits from which the dividend is paid. The amendment seeks to remedy these defects and at the same time opportunity is taken to make it clear that it applies only to persons who are subject to the Indian Income-tax Act inasmuch as refunds are admissible under section 48 only in the case of such persons.

<sup>12</sup> This sub-section was substituted for the old sub-section (1) by s. 26 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). The amendment seeks to make section 49C (1) consistent with the new section 49B.

(2) If the rate at which a shareholder is deemed under subsection (1) to have obtained relief exceeds the rate at which he would have been entitled to relief had such relief been given direct to him by or under the said sections or Order, any excess shall be recovered from him either as an addition to the tax payable by him on any assessment made on him under section 23 or section 34 or by setting it off against any relief due to him under section 43.

**49D.** If any person who has paid by deduction or otherwise Indian income-tax for any year in respect of any income arising without British India in a country the laws of which do not provide for any relief in respect of income tax charged in British India proves that he has paid income-tax by deduction or otherwise under the laws of the said country in respect of the same income, he shall be entitled to the deduction from the Indian income-tax payable of a sum equal to one-half of such Indian income-tax or to one-half of such tax payable in the said country, whichever is the less.

Relief in respect of tax charged in country not providing for relief in respect of British Indian Income-tax.

<sup>13</sup>[*Explanation.*—The expression ‘Indian income-tax’ in this section means income-tax and super-tax charged in accordance with the provisions of this Act.]

<sup>14</sup>[**49E.**] Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer <sup>15</sup>[Appellate Assistant Commissioner] or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the tax, if any, remaining payable by the person to whom the refund is due.

Power to set off amount of refunds against tax remaining payable.

<sup>16</sup>[**49F.**] Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 48, <sup>17</sup> \* \* \* or 49, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

Power of representative of deceased person or persons disabled to make claim on his behalf.

<sup>13</sup> This was added by s. 27 of Indian Income-tax (Amendment) Act, 1941 (23 of 1941) and serves to make it clear that relief under s. 49D applies to super-tax as well as income-tax.

<sup>14</sup> The existing section 49C was originally inserted as section 49A by s. 19 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933) and was re-numbered by s. 59 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>15</sup> These words were substituted for the words “Assistant Commissioner,”

<sup>16</sup> The existing section 49F was originally inserted as section 49B by s. 19 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933) and was re-numbered by s. 60 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>17</sup> The word, figures and letter “or 48A” were omitted by s. 60 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).



**50.** No claim to any refund of income-tax <sup>18</sup>[or super-tax] under this Chapter shall be allowed, unless it is made within <sup>19</sup>[four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India :

Limitation of  
claim for  
refund.

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which the tax was recovered before the last day of the financial year commencing after the expiry of the previous year as defined in clause (11) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later :]

<sup>20</sup>[Provided <sup>21</sup>[further] that a claim to refund under section 49 <sup>22</sup>[of tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939], may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period ]

**50A.** [Omitted by s. 62 of Act 7 of 1939].

## CHAPTER VIII

### OFFENCES AND PENALTIES.

Failure to make  
payments or  
deliver returns  
or statements  
or allow  
inspection.

**5i.** If a person fails without reasonable cause or -----

(a) to deduct and pay any tax as required by section 18 or under sub-section (5) of section 46 ;

(b) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished ;

(c) to furnish in due time any of the returns\* mentioned in <sup>1</sup>[section 19A], <sup>2</sup>[section 20A], section 21, <sup>3</sup>[sub-section (2) of] section 22, or section 38 ;

(d) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice ;

<sup>18</sup> These words were inserted by s. 61 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>19</sup> These words were substituted, *ibid.*

<sup>20</sup> This proviso was added by s. 8 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>21</sup> This word was inserted by s. 61 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

<sup>22</sup> These words, brackets and figures were inserted, *ibid.*

<sup>1</sup> This word, figures and letter were inserted by s. 3 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926).

<sup>2</sup> This word, figures and letter were inserted by s. 21 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>3</sup> These words, brackets and figure were inserted by s. 63 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).



(e) to grant inspection or allow copies to be taken in accordance with the provisions of section 39 ;

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

52. If a person makes a statement in a verification mentioned in <sup>4</sup>[section 19A or] <sup>5</sup>[section 20A <sup>6</sup>[or section 21] or] section 22 <sup>7</sup>[or sub-section (2) of section 26A] or sub-section (3) of section 30 <sup>8</sup>[or of sub-section (3) of section 33]<sup>9</sup>\* \* \* \* which is false, and which he either knows or believes to be false or does not believe to be true, he shall <sup>10</sup>[be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both].

False statement in declaration.

53. (1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the <sup>11</sup>[Inspecting Assistant Commissioner.]

<sup>12</sup>[(2) The Inspecting Assistant Commissioner may either before or after the institution of proceedings compound any such offence.]

54. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

4 These words and figures were inserted by s. 4 of the Indian Income-tax (Amendment) Act 1926 (24 of 1926).

5 These words and figures were inserted by s. 22. of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

6 These words and figures were inserted by s. 64 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

7 These words, brackets and figures were inserted by s. 9 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930).

8 These words were substituted for the words "or of sub-section (2) of section 32" by the Indian Income tax (Amendment) Act, 1941 (23 of 1941). This is consequential on the omission of section 32 and on the constitution of the Appellate Tribunal.

9 The words, brackets, letters and figures "or sub-section (2) of section 33A or sub-section (3) of section 50A" were omitted by s. 64 of the Indian Income-tax (Amendment) Act (7 of 1939).

10 These words were substituted for the words "be deemed to have committed the offence described in section 177 of the Indian Penal Code," *ibid*

11 These words were substituted for the words "Assistant Commissioner" by s. 65, *ibid*.

12 This sub-section was substituted, *ibid*.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

<sup>13</sup>\* \* \* \* <sup>13</sup>[ (3) ] Nothing in this section shall apply to the disclosure—

- (a) of any such particulars for the purposes of a prosecution under <sup>14</sup>\* \* \* \* the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or
- (b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or
- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or
- <sup>15</sup>[ (d) of any such particulars to a Civil Court in any suit to which Government is a party, which relates to any matter arising out of any proceeding under this Act, or
- (e) of any such particulars to the Auditor General of India for the purpose of enabling him to discharge his functions under section 144 of the Government of India Act, 1935, or
- (f) of any such particulars to any officer appointed by the Auditor General of India or the Central Board of Revenue to audit income-tax receipts or refunds, or
- (g) of any such particulars, relevant to any inquiry into the conduct of an official of the Income-tax Department, to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850, or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under the Government of India Act, 1935, when exercising its functions in relation to any matter arising out of any such inquiry or]

<sup>16</sup>[ (gg) of any such particulars, relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a lawyer or registered accountant to the authority referred to in sub-section (3) of section 61, when exercising the functions referred to in that sub-section.];

<sup>13</sup> The words "Provided that" were omitted and the proviso numbered as sub-section (3) by s. 66 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>14</sup> The words and figures "section 193 of" were omitted by s. 9 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>15</sup> These clauses were inserted by s. 66 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>16</sup> This clause was inserted by s. 4 of the Income-tax (Amendment) Act, 1940 (12 of 1940).

<sup>17</sup>[<sup>17</sup> (h)] of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document, or]

<sup>18</sup>[(i) of such facts, to an authorised officer of the United Kingdom, or of any Indian State or of any part of His Majesty's Dominions which has entered into an agreement with British India for the granting of double taxation relief, as may be necessary for the purpose of enabling such relief or a refund under section 49 of this Act to be given, or

(j) of such facts, to an officer of a Provincial Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it on agricultural income, or

(k) of such facts, to any authority exercising powers under the Sea Customs Act, 1878 or any Act of the Central Legislature imposing a duty of exercise as may be necessary for enabling it duly to exercise such powers, or

(l) of such facts, <sup>19</sup>[to any person charged by law with the duty of inquiring into the qualifications of electors], as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or

(m) <sup>20</sup>[of] so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established.]

<sup>21</sup>[<sup>21</sup> \* \* \* <sup>21</sup> [(4)] Nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or

17 The original clause (cc) was inserted by s. 23 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933) and was re-lettered as clause (h) by s. 66 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

18 These clauses were substituted for the original clause (d) *ibid.*

19 These words were substituted for the words "to a Returning Officer" by s. 29 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941). This seeks to amend the provisions which allows disclosure of such facts to a Returning Officer as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll. As, in practice, a Returning Officer has nothing to do with the preparation of or revision of electoral rolls, hence the change.

20 This word was inserted by s. 4 of the Income-tax (Amendment) Act, 1940 (12 of 1940).

21 From the original proviso which was inserted by s. 10 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), the words "Provided further that" were omitted and the proviso numbered) as sub-section (4) by s. 66 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

deposition made in a proceeding under <sup>22</sup>[section 25 A or] section 26 A, or to the giving of evidence by a public servant in respect thereof.]

<sup>23</sup>\* \* \* <sup>23</sup>[(5)] No prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

## CHAPTER IX.

### SUPER-TAX.

55. In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any <sup>1</sup> [individual, Hindu undivided family <sup>2</sup> company, local authority, unregistered firm or other association of persons], not being a registered firm ], <sup>3</sup>[or the partners of the firm or members of the association individually,] an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by Act of the <sup>4</sup> [Central Legislature]:

<sup>5</sup>[Provided that where under the provisions of clause (b) of sub-section (5) of section 23 an unregistered firm has been assessed in the manner applicable to a registered firm, super-tax shall be payable by each partner of the firm individually on his share in the income, profits and gains of the firm and not by the firm itself:]

Provided <sup>6</sup>[further] that, where the profits and gains of an unregistered firm <sup>7</sup>[or other association of persons not being a company ] have been assessed to super-tax, super-tax shall not be payable by <sup>8</sup>[a partner of the firm or a member of the association, as the case may be ], in respect of the amount of such profits and gains which is proportionate to his share.

56. <sup>8A</sup> [Except in cases to which by clause (a) of the proviso to sub-sections (3) and (4) of section 25 those sub-sections do not apply

<sup>22</sup> These words, letter and figure were inserted by s. 66 of Indian income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>23</sup> The words "Provided further that" were omitted and the proviso numbered as sub-section (5) *ibid*.

<sup>1</sup> These words were substituted for the words "individual, unregistered firm, Hindu undivided family or company" with effect from 1st April, 1923 by ss. 7 and 11 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

<sup>2</sup> These words were substituted for the words "company, unregistered firm or other association of individuals" by s. 67 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>3</sup> These words were inserted, *ibid*.

<sup>4</sup> These words were substituted for the words "Indian Legislature" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>5</sup> This proviso was inserted by s. 67 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>6</sup> This word was inserted, *ibid*.

<sup>7</sup> These words were inserted, *ibid*.

<sup>8</sup> These words were substituted for the words "an individual having a share in the firm," *ibid*.

<sup>8A</sup> These words have been added by the Amendment Act of 1944.

and] subject to the provisions of this Chapter, the total income of any  
 Total income for purposes of super-tax. <sup>9</sup>[individual, Hindu undivided family, company,  
<sup>10</sup>[local authority], unregistered firm or other  
<sup>11</sup>[association of persons] ] shall, for the purposes of  
 super-tax, be the total income as assessed for the  
 purposes of income-tax, and where an assessment of total income has  
 become final and conclusive for the purposes of income-tax for any  
 year, the assessment shall also be final and conclusive for the purposes  
 of super-tax for the same year.

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57. [Omitted by s. 69 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939) ]

58. (1) All the provisions of this Act, <sup>13</sup>[relating to the charge, assessment, collection and recovery of income-tax except those contained in] section 3, <sup>14</sup> [the second proviso] to sub-section (1) of section 7, <sup>15</sup> [the second and third provisos to section 8], <sup>16</sup>[clauses (a) and (b) of sub-section (2) of section 14], and sections 15, <sup>17\*</sup> <sup>18\*</sup> 19, <sup>19</sup>[and 20 and the first proviso to sub-section (1) of section 41 and section] <sup>20\*</sup> <sup>21</sup> [<sup>22\*</sup> 58F and <sup>23</sup>[sub-section (2) ] of section 58G] shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

<sup>9</sup> These word were substituted for the words " individual, unregistered firm, Hindu undivided family or company " by ss. 8 and 11 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924) with effect from 1st April 1923.

<sup>10</sup> These words were inserted by s. 68 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>11</sup> These words were substituted for the words " association of individuals ", *ibid.*

<sup>12</sup> The proviso was omitted by s. 10 of the Indian Income tax (Amendment) Act, 1928 (3 of 1928).

<sup>13</sup> These words were substituted for the word " except " by s. 25 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>14</sup> These words were substituted for the words " the proviso " by s. 70 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

<sup>15</sup> These words and figure were substituted for the words and figure " the proviso to section 8 " by s. 25 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>16</sup> These words, brackets and figures were substituted for the words, brackets and figures " sub-section (2) of section 14 " by s. 30 of the Indian Income-tax (Amendment) Act, 1941. Cf. foot-note to s. 14 (2) (c), *supra*.

<sup>17</sup> The figures " 17 " were omitted by s. 70 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>18</sup> The figures " 18 " were omitted by s. 25 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>19</sup> These words, figures and brackets were substituted for the figures " 20 " by s. 70 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>20</sup> The figures " 21 " were omitted, *ibid.*

<sup>21</sup> These words, figures and letters were substituted for the word and figures " and 48 " by s. 25 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>22</sup> The figures " 48 " were omitted by s. 70 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

<sup>23</sup> This word, the brackets and figure were substituted for the words, brackets and figures " sub-sections (2) and (3) ", *ibid.*

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(2) Save as provided in <sup>25</sup>[<sup>26</sup>[sub-sections (2), (2A), (2B), (3B), (3C), (3D) and (3E)] of section 18,] <sup>27</sup>\* \* \* <sup>28</sup>[and section 58H] super-tax shall be payable by the assessee direct.

## [CHAPTER IXA.

### SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS.

#### Definitions.

58A. In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) a “recognised provident fund” means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter ;
- (b) an “employer” means—
  - (i) a Hindu undivided family, company, firm or other association of <sup>24</sup>\* \* persons, or
  - (ii) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10, <sup>25</sup>\* \* \* \* maintaining a provident fund for the benefit of his or its employees,
- (c) an “employee” means an employee participating in a provident fund, but does not include a personal or domestic servant ;
- (d) a “contribution” means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest ;
- (e) the “balance to the credit” of an employee means the total amount to the credit of his individual account in a provident fund at any time ;
- (f) the “annual accretion” to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interests ;

24 The proviso was omitted by s. 25 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

25 These words, brackets, figures and letters were inserted, *ibid.*

26 These words, brackets, figures and letters were substituted for the words, brackets, figures and letters “sub-sections (3A), (3B), (3C) and (3D)” by s. 70 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

27 The word and figures “section 57” were omitted, *ibid.*

28 These words, figures and the letter were inserted by s. 4 of the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929).

1 This chapter was inserted by s. 5, *ibid.*

2 The words “individuals or” were omitted by s. 71 of the Indian Income-tax (Amendment) Act, 1939. (7 of 1939).

3 The words and figures “or section 11” were omitted, *ibid.*



(g) the "accumulated balance due" to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund; and

(h) the "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund.

**58B.** (1) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 48C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

The according  
and withdrawal  
of recognition.

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<sup>4</sup>[ (2) ] An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

<sup>4</sup>[ (3) ] An order withdrawing recognition shall take effect from the day on which it is made.

<sup>5</sup>[3A) ] An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first mentioned fund.]

<sup>4</sup>[ (4) ] An employer objecting to an order of the Commissioner refusing to recognise <sup>6</sup>[or an order withdrawing recognition from] a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue.

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

Conditions to  
be satisfied by  
a recognised  
provident  
fund.

**58C.** (1) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the <sup>7</sup>[Central Government] may, by rule, prescribe—

4 Sub-section (2) was omitted and sub-sections (3), (4) and (5) were re-numbered as (2), (3) and (4), respectively, by s. 72 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

5 This sub-section was inserted by s. 9 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

6 These words were inserted by s. 27 of the Indian Income-tax (Amendment) Act (7 of 1939).

7 These words were substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws Order), 1937.



- (a) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in British India :

<sup>8</sup>[Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in British India notwithstanding that a proportion not exceeding ten per cent. of the employees is employed outside India.]

- (b) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund :

<sup>9</sup>[Provided that an employee who retains his employment while serving in His Majesty's Forces or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered His Majesty's Forces, or been so taken into or employed in the national service, contribute to the fund during his service in His Majesty's Forces or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered His Majesty's Forces or been taken into or employed in the national service.]

- (c) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year.

- (d) The fund shall consist of contributions as above specified <sup>10</sup>[and of donations, if any, received <sup>11</sup>[by the trustees], of accumulations thereof, and of interest (simple and compound), credited in respect of such

<sup>8</sup> This proviso was added by s. 10 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

<sup>9</sup> This proviso was added, *ibid* and shall have effect from 3rd September, 1939.

<sup>10</sup> These words were inserted by s. 10 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

<sup>11</sup> These words were substituted for the words "from the trustees" by s. 31 of the Indian Income-tax (Amendment) Act, 1941 (23 of 1941) in order to correct a verbal error in the old clause.

<sup>12</sup>[contributions, donations and accumulations], and of securities purchased therewith, and of no other sums.

- (e) The fund shall be vested in two or more trustees<sup>13</sup> [or in the Official Trustee] under a trust which shall not be revocable save with the consent of all the beneficiaries.
- (f) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable causes before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund.

- (g) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund.
- (h) Save as provided in clause (g), or in accordance with such conditions and restrictions as the <sup>14</sup>[Central Government] may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him.

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect.

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

Power to relax restrictions of employer's contributions in certain cases.

58D. Subject to any rules which the <sup>14</sup>[Central Government] may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (c) of sub-section (1) of section 58C—

- (a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem ; and

<sup>12</sup> These words were substituted for the words "contributions and accumulations", by s. 10 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

<sup>13</sup> These words were inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1931 (4 of 1931).

<sup>14</sup> These words were substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

- (b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

**58E.** The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in section 58F, shall be liable to income-tax and super-tax :

Provided that, for the purposes of sub-section (3) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income.

**58F.** (1) An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year <sup>15</sup> [or six thousand rupees, whichever is less.]

(2) <sup>16</sup>[ Interest credited on the accumulated balance of any employee in a recognised provident fund shall be exempt from payment of income-tax, if and in so far as it does not exceed one-third of the salary of the employee for the year concerned and] in so far as it is allowed at the rate not exceeding such rate as the <sup>17</sup>[Central Government] may, by notification in the <sup>18</sup>[Official Gazette], fix in this behalf.

**58G.** <sup>19</sup>[ (1) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super-tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under sections 58E up to the first day of April, 1933, if the Indian Income-tax (Second Amendment) Act, 1933, had come into force on the 15th March, 1930 )

<sup>10</sup> [ (2) Where an employee participating in a recognised provident fund has rendered continuous services with his employer for a period of not less than five years, and accumulated balance

<sup>15</sup> These words were added by s. 73 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>16</sup> These words were substituted for the original words, *ibid.*

<sup>17</sup> These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>18</sup> These words were substituted for the words "Gazette of India", *ibid.*

<sup>19</sup> Sub-section (1) was inserted and original sub-section (1) was re-numbered (2) by s. 16 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax <sup>20\*</sup> \* \* \* and shall be excluded from the computation of his total income:

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employee's business, or other cause beyond the control of the employee.

<sup>21</sup>[(3) Where exemption from payment of income-tax is not allowed under the provisions of <sup>22</sup>[sub-section (2)], the Income-tax Officer shall calculate the total of the various sums of income-tax <sup>23</sup>[and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax] for which he may be liable for the year in which the accumulated balance due to him becomes payable.

**58H.** The trustee of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any income-tax payable under <sup>24</sup>[sub-section (3) of section 58G.] and any income-tax and super-tax payable on an employee's total income as determined under sub-section (3) of section 58J, and sub-sections (4) to (9) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head "Salaries".

**58-1. (1)** The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe.

(2) The accounts shall be open to inspection at all reasonable times by income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Central Board of Revenue may prescribe.

<sup>20</sup> The words "and super-tax" were omitted by s. 26 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>21</sup> Original sub-section (2) was re-numbered (3), *ibid.*

<sup>22</sup> This word, brackets and figures were substituted for the word, brackets and figure "sub-section (1)", *ibid.*

<sup>23</sup> These words were substituted for the original words by s. 74 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>24</sup> This word, brackets and figure were substituted for the word brackets and figure "sub-section [2]" by s. 2 and Sch. I of the Repealing and Amending Act, 1934 [24 of 1934].

**58J. (1)** Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe.

Treatment of  
balances in  
newly  
recognised  
provident  
funds.

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-sections (3) and (4) shall apply thereto.

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter.

(3) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year; and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power, subject to the said rules, to make a summary calculation of such aggregate.

(4) Notwithstanding anything contained in condition (h) of sub-section (1) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (3) shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income.

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded in any manner which may be lawful,

**58K.** (1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

Treatment  
of fund  
transferred by  
employer to  
trustee.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, <sup>25</sup>[if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee,] be deemed to be an expenditure by the employer within the meaning of <sup>26</sup>[clause (xii)] of sub-section (2) of section 10, incurred in the year in which the accumulated balance due to the employee is paid.

Provisions  
relating to  
rules.

**58 L.** (1) All rules made under this Chapter shall be subject to the provisions of sub-sections (4) and (5) of section 59.

(2) In addition to any power conferred by this Chapter, the <sup>27</sup>[Central Government] may make rules—

- (a) prescribing the statements and other information to be submitted with an application for recognition ;
- (b) limiting the contributions to a recognised provident fund by employees of a company who are share-holders in the company;
- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund ;
- (d) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contribution and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn ; and
- (e) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as <sup>28</sup>[it] may deem requisite.

<sup>25</sup> These words were inserted by s. 75 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>26</sup> This word, brackets and figures were substituted for the word, brackets and figures "clause (ix)", by s. 73 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>27</sup> These words were substituted for the word, Governor-General in Council " by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>28</sup> This word was substituted for the word "he",



Application of  
this chapter.

58 M. This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925, applies.]

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# <sup>1</sup>[CHAPTER IX-B.

## SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPERANNUATION FUNDS.

Definitions.

58 N. In this Chapter, unless, there is anything repugnant in the subject or context.—

- (a) 'approved superannuation fund' means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Central Board of Revenue in accordance with the provisions of this Chapter ;
- (b) 'employer', 'employee' and 'contribution' have in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds ;
- (c) 'ordinary annual contribution' means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the funds.

**58-O.** (1) The Central Board of Revenue may accord approval to any superannuation funds or any part of a superannuation fund which in its opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in its opinion the circumstances of the funds or part cease to warrant the continuance of the approval.

Approval and  
withdrawal of  
approval.

(2) The Central Board of Revenue shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions.

(3) The Central Board of Revenue shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter.

Conditions for  
approval.

58P. In order that a superannuation fund may receive and retain approval the following conditions shall be satisfied, namely:—

- (a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in British India:

<sup>1</sup> Chapter IX-B was inserted by s. 76 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

- (b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons ; and
- (c) the employer in the trade or undertaking shall be a contributor to the fund :

Provided that the Central Board of Revenue may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund—

- (i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or
- (ii) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or
- (iii) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in British India.

**58Q.** (1) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the Income-tax Officer, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the funds for the last year for which such accounts have been made up. The Central Board of Revenue may require such further information to be supplied as it thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer, and in default of such communication any approval given shall, unless the Central Board of Revenue otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

**58R.** Income derived from investments or deposits of an approved superannuation fund shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15 apply :

Provided further that where a contribution by an employer is not an ordinary contribution it shall, for the purposes of this section, be treated, as the Central Board of Revenue may direct,

either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Central Board of revenue thinks proper.

**58S.** (1) Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax<sup>2</sup> \* \* \* to be income of the employee for that year.

Treatment of repaid contributions.

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his lifetime but not at or in connection with the termination of his employment income-tax on the amount so repaid or paid shall except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax<sup>3</sup> \* \* \* during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct

Deduction from pay of and contributions on behalf of, employee to be included in return under section 21.

**58T.** Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21.

Liabilities of trustees on cessation of approval of fund.

**58U.** If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

(a) on account of returned contributions (including interest on contributions, if any), and

(b) in commutation or in lieu of annuities, in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter.

Particulars to be furnished in respect of superannuation funds.

**58V.** The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice :—

(a) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require ;

(b) prepare and deliver to the Income-tax Officer a return containing—

<sup>2</sup> The words "and super-tax" were omitted by s. 5 of the Income-tax (Amendment) Act, 1940 (12 of 1940).

<sup>3</sup> The words "and super-tax" were omitted, *ibid.*

- (i) the name and place of residence of every person in receipt of an annuity from the fund,
- (ii) the amount of the annuity payable to each annuitant,
- (iii) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees; and
- (iv) particulars of sums paid in commutation or in lieu of annuities;
- (c) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Central Board of Revenue may reasonably require.

## CHAPTER X.

### MISCELLANEOUS

59. (1) The <sup>1</sup>[Central Board of Revenue] may, subject to the control of the <sup>2</sup>[Central Government), make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(i) incomes derived in part from agriculture and in part from business;

\* \* \* \* \*

<sup>3</sup>[(ii)] persons residing out of British India;

(b) prescribe the procedure to be followed on applications for refunds;

(c) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920, or under section 49 of this Act;

(d) prescribe the year which, for the purpose of relief under section 49, is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920; and

(e) provide for any matter which by this Act is to be prescribed.

<sup>1</sup> These words were substituted for the words "Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

<sup>2</sup> These words were substituted for the words "Governor-General-in-Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup> The original sub-clause (ii) was omitted and sub-section (iii) re-numbered (ii) by s. 77 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>4</sup>[(3) In cases coming under clause (a) of sub-section (2), which the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub-section may—

(a) prescribe methods by which an estimate of such income, profits and gains may be made, and

(b) in cases coming under sub-clause (i) of clause (a) or sub-section (2), prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax ;

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.]

<sup>5</sup>[(4)] The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

<sup>6</sup>[(5)] Rules made under this section shall be published in the <sup>6</sup>[official Gazette], and shall thereupon have effect as if enacted in this Act.

60. <sup>7</sup>[(1)] The <sup>8</sup>[Central Government] may, by notification in the <sup>9</sup>[official Gazette], make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

<sup>10</sup>[(2) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, <sup>11</sup>[or by reason of his having received in any one financial year salary for more than twelve months], <sup>12</sup>[or a payment which is under the provisions of sub-section (1) of section 7 a profit in lieu of salary] his income is assessed at a rate higher than that at which it would otherwise have been assessed, the <sup>8</sup>[Central Government] may grant <sup>13</sup>[the appropriate relief].

<sup>4</sup> This sub-section was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1927 (28 of 1927).

<sup>5</sup> This sub-section was re-numbered, *ibid.*

<sup>6</sup> These words were substituted for the words "Gazette of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>7</sup> Original s. 60 was re-numbered as sub-section (1) by s. 10 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>8</sup> These words were substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>9</sup> These words were substituted for the words "Gazette of India", *ibid.*

<sup>10</sup> This sub-section was added by s. 10 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>11</sup> These words were inserted by s. 27 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

<sup>12</sup> These words, brackets and figures were inserted by s. 78 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>13</sup> These words were substituted for the words "such relief as it may fit", *ibid.*

<sup>14</sup>[(3) After the commencement of the Indian Income-tax (Amendment) Act, 1939, the power conferred by sub-section (1) shall not be exercisable except for the purpose of rescinding an exemption, reduction or modification already made.]

<sup>15</sup>[61. (1) Any assessee, who is entitled or required to attend before <sup>16</sup>[the Appellate Tribunal or] any Income-tax authority in connection with any proceeding under this Act otherwise than when required under section 37 to attend personally for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or Income-tax practitioner and not being disqualified by or under sub-section (3).]

Appearance by  
authorised  
representative.

(2) In this section,—

- (i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings ;
- (ii) “ lawyer ” means a Barrister-at-Law or Solicitor or any other person entitled to plead in any Court of law in British India :
- (iii) “ accountant ” means a registered accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932, or a holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue ;
- (iv) “ Income-tax practitioner ” means—
  - (a) any person who, before the 1st day of April, 1938, attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee ;
  - (b) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue ; or
  - (c) any person who has acquired such educational qualifications as the Central Board of Revenue may prescribe for this purpose.

(3) No person who has been dismissed from Government service after the 1st day of April, 1938, shall be qualified to represent an assessee under sub-section (1) ; and if any lawyer or registered accountant is found guilty of misconduct in connection with any income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the

<sup>14</sup> This sub-section was added by s. 78 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>15</sup> This section was substituted by s. 79, *ibid.*

<sup>16</sup> These words were inserted by s. 11 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).



Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1) :

Provided that—

- (a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,
- (b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Central Board of Revenue to have the direction cancelled, and
- (c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal.

Receipts to  
be given.

62. A receipt shall be given for any money paid or recovered under this Act.

Service of  
notices.

63. (1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or <sup>17</sup>[to the] manager, or any adult male member of the family <sup>18</sup>[and, in the case of any other <sup>19</sup>[association of persons] be addressed to the principal officer thereof.]

64. (1) Where an assessee carries on <sup>20</sup>[a business, profession or vocation] at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the <sup>20</sup>[business, profession or vocation] is carried on in more places than one, by the Income-tax Officer of the area in which <sup>21</sup>[the principal place of his business, profession or vocation] is situate.

(2) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more provinces than one, by the Commissioners concerned, or, if they are not in agreement, by the <sup>22</sup>[Central Board of Revenue] :

17 These words were substituted for the words "on the" by s. 2 and Sch. I of the Repealing and Amending Act, 1924 (7 of 1924).

18 These words were added by s. 9 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

19 These words were substituted for the words "association of individuals" by s. 80 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

20 These words were substituted for the word "business" by s. 81. *ibid.*

21 These words were substituted for the words "his principal place of business," *ibid.*

22 These words were substituted for the words "Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views:

<sup>23</sup> [Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (1) of section 22 and has stated therein the principal place wherein he carries on his business, profession or vocation, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (2) of section 22 or under section 34 for the making of a return :

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made.]

(4) Notwithstanding anything contained in this section every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

<sup>24</sup> [ (5) The provisions of sub-section (1) and sub-section (2) shall not apply and shall be deemed never at any time to have applied to any assessee—

(a) on whom an assessment or re-assessment for the purposes of this Act has been, is being or is to be made in the course of any case in respect of which a Commissioner of Income-tax appointed without reference to area under sub-section (2) of section 5 is exercising the functions of a Commissioner of Income-tax, or

(b) where by <sup>25</sup> [ any direction given or] any distribution or allocation of work made by the Commissioner of Income-tax under sub-section (5) of section 5, <sup>25</sup> [or in consequence of any transfer made by him under sub-section (7A) of section 5], a particular Income-tax Officer has been charged with the function of assessing that assessee, or

(c) who or whose income is included in a class of persons or a class of incomes specified in any notification issued under sub-section (6) of section 5,

but the assessment of such person, whether the proceedings for such assessment began before or after the 1st day of April, 1939, shall be made by the Income-tax Officer for the time being charged with the function of making such assessment by the Central Board of Revenue or by the Commissioner of Income-tax to whom he is subordinate, as the case may be. ]

<sup>83</sup> These provisos were added by s. 81 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>24</sup>. This subsection was added by s. 6 of the Income-tax (Amendment) Act, 1940 (12 of 1940).

<sup>25</sup>. These words, brackets, letter and figure were inserted by s. 12 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

65. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

66. <sup>26</sup> [(1) Within sixty days of the date upon which he is served with notice of an order under sub-section (4) of section 33 the assessee or the Commissioner may, by application in the prescribed form, accompanied where application is made by the assessee by a fee of one hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court:

Statement of  
case by  
Appellate  
Tribunal to  
High Court.

Provided that, if, in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly.

(3) If on any application being made under sub-section (1) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within two months from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1).

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment ].

26. These sub-sections were substituted by s. 92 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

(6) Where a reference is made to the High Court <sup>27\*</sup> \* \* the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow <sup>28</sup>[unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to His Majesty in Council, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to His Majesty in Council.]

<sup>29</sup>[(7A) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court by an assessee <sup>30</sup>[under sub-section (2) or sub-section (3)].]

<sup>31</sup> (8) For the purposes of this section " the High Court " means—

- (a) in relation to <sup>32\*</sup> \* British Baluchistan the High Court of Judicature at Lahore ;
- (b) in relation to the province of Ajmer-Merwara, the High Court of Judicature at Allahabad ; and
- (c) in relation to the province of Coorg, the High Court of Judicature at Madras.]

References to  
be heard by  
Benches of  
High Courts,  
and appeal to  
lie in certain  
cases to Privy  
Council.

<sup>33</sup>[66A. (1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908, shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force :

<sup>34</sup>[Provided that where in any reference heard by the Bench of the Court of the Judicial Commissioner of the North West Frontier

<sup>27</sup> The words "on the application of an assessee" were omitted by s. 92 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>28</sup> These words were added by s. 82 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>29</sup> This sub-section was inserted by s. 28 of the Indian Income-tax (Second Amendment) Act, 1938 (18 of 1938).

<sup>30</sup> These words, brackets and figures were substituted for the words, brackets and figures " under sub-section (3) or sub section (3A) " by s. 92 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>31</sup> This sub-section was added by s. 7 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926).

<sup>32</sup> The words " the North-West Frontier Province and " were omitted by s. 82 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>33</sup> This section was inserted by s. 8 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926).

<sup>34</sup> This proviso was added by s. 83 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

Province, a difference of opinion arises between the Judicial Commissioner and the Judge of the said Court, the opinion of the Judicial Commissioner shall prevail.]

(2) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council.

(3) The provisions of the Code of Civil Procedure, 1908, relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66 :

Provided further that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court.

(5) Nothing in this section shall be deemed—

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee.]

**67.** No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any <sup>36</sup>[officer of the Crown] for anything in good faith done or intended to be done under this Act.

Bar of suits  
in Civil Court.

Computation  
of periods of  
limitation.

<sup>36</sup>[**67A.** In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded.]

<sup>35</sup> These words were substituted for the words " Government Officer " by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>36</sup> This section was inserted by s. 12 of the Indian Income tax (Second Amendment) Act, 1930 (22 of 1930).

<sup>37</sup>[67B. If on the 1st day of April in any year provision has not yet been made by an Act of the Indian Legislature for the charging of income-tax for that year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding year or the provision proposed in the Bill then before the Legislature, whichever is more favourable to the assessee, were actually in force.]

Act to have  
effect pending  
legislative  
provision for  
charge of  
income-tax.

68. *Repealed by the Repealing Act, 1927 (12 of 1927).*

### <sup>1</sup>[THE SCHEDULE.]

[See section 10 (7)]

#### RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS.

1, In the case of any person who carries on, or at any time in the preceding year carried on, life insurance business, the profits and gains of such person from the business shall be computed separately from his income, profits or gains from any other business.

2. The profits and gains of life insurance business shall be taken to be either—

- (a) the gross external incomings of the preceding year from the business less the management expenses of that year, or
- (b) the annual average of the surplus <sup>2</sup>[arrived at by adjusting the surplus or deficit] disclosed by the actuarial valuation made for the last inter-valuation period ending before the year for which the assessment is to be made, <sup>3</sup> \* \* so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may under the provisions of section 10 of this Act, be allowed for in computing the profits and gains of a business,

whichever is the greater:

Provided that the amount to be allowed as management expenses shall not exceed—

- (a)  $7\frac{1}{2}$  per cent. of the premiums received during the preceding year in respect of single premium life insurance policies, *plus*
- <sup>4</sup> (b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums payable is less than twelve, or for which the number of years during which premium are payable is less than twelve, for each such premium or each such year  $7\frac{1}{2}$  per cent. of such first year's premiums received during the preceding year, *plus*

<sup>37</sup> This section was inserted by s. 7 of the Income-tax (Amendment) Act, 1940 (12 of 1940).

<sup>38</sup> The original Schedule was repealed by the Repealing Act, 1927 (12 of 1927), and this Schedule was added by s. 84 of the India Income-tax (Amendment) Act, 1939 (7 of 1939).

<sup>39</sup> These words were inserted by s. 8 of the Income-tax (Amendment) Act, 1940 (12 of 1940).

<sup>40</sup> The words "after adjusting such surplus" were omitted, *ibid*.



- <sup>2</sup>A. [(c) 90 per cent of the first year's premium received during the preceding year in respect of all other life assurance policies, *plus*  
 (d) 12 per cent of all renewal premiums received during the preceding year.]

3. In computing the surplus for the purpose of rule 2,—

- (a) one-half of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction :

Provided that in the first such computation made under this rule of any such surplus no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period ;

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders one-half of such amount, if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved ;

- (b) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of securities or other assets, shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus :

Provided that if upon investigation it appears to the income-tax Officer after consultation with the Superintendent of Insurance that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of, or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets, as shall increase the surplus for the purposes of these rules to a figure which is fair and just :

- <sup>3</sup>B[(c) An interest received in respect of any securities of the Central Government which have been issued or declared to be income tax free, shall not be excluded but the whole amount of such interest received during the intervaluation period shall be exempt from income-tax under the second proviso to section 8 though not from super tax.]

<sup>3</sup>A. These two clauses were added by the Amendment Act of 1944.  
<sup>2</sup>A. This clause has been substituted by the Act of 1944.

4. Where for any year an assessment is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with sub-section (5) of section 18 for the tax paid in the preceding year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period.

5. For the purposes of these rules—

(i) 'preceding year' means that year for which annual accounts are required to be prepared under the Insurance Act, 1938, immediately preceding the year for which the assessment is to be made or until the commencement of the Insurance Act, 1938, the previous year as defined in section 2 of this Act;

(ii) 'gross external incomings' means the full amount of incomings from interest, fines and fees and all other incomings from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund) and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of securities or other assets;

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of sub-section (7) of section 10 would have been assessable under section 9 shall be computed upon the basis laid down in the last-named section, and that there shall be allowed from such gross incomings such deductions as are permissible under that section.

(iii) 'management expenses' means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, securities or other assets and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules;

(iv) 'life insurance business' means life insurance business as defined in clause (11) of section 2 of the Insurance Act, 1938 ;

(v) 'securities' includes stocks and shares.

6. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance

Act, 1938, to be furnished to the Superintendent of Insurance after adjusting such balance so as to exclude from it any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business. Profits and losses on the realisation of investments and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance.

7. The profits and gains of companies carrying on dividing society or assessment business shall be taken to be 15 per cent. of the premium income of the previous year, or in the case of non-resident companies 15 per cent. of the British Indian premium income of the previous

8. The profits and gains of the British Indian branches of an insurance company not resident in British India, in the absence of more reliable data, may be deemed to be the proportion of the total world income of the company corresponding to the proportion which its British Indian premium income bears to its total premium income. For the purpose of this rule, the total world income of life insurance companies not resident in British India whose profits are periodically ascertained by actuarial valuation shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in British India.

9. These rules apply to the assessment of the profits of any business of insurance carried on <sup>4</sup>[by a mutual insurance association].

4 These words were substituted for the words "by a mutual insurance company" by s. 13 of the Indian Income-tax (Amendment) Act, 1940 (40 of 1940).

# **The Excess Profits Tax Act, 1940**

## **C O N T E N T S.**

### **SECTIONS.**

1. Short title, extent and commencement.
2. Definitions.
3. Excess profits tax authorities.
4. Charge of tax.
5. Application of Act.
6. Standard profits.
7. Relief on occurrence of deficiency of profits.
- 7A. Special provision for chargeable accounting period falling partly before and partly after the end of March, 1941.
8. Successions and amalgamations.
9. Inter-connected companies.
10. Artificial transactions.
- 10A. Transactions designed to avoid or reduce liability to Excess Profits Tax.
11. Relief in respect of double excess profits taxation.
12. Allowance of excess profits tax in computing income for income-tax purposes.
13. Issue of notices for assessment.
14. Assessment.
15. Profits escaping assessment.
16. Penalties.
17. Appeals.
18. Appeal to Commissioner against Appellate Assistant Commissioner's orders imposing penalties or enhancing assessments or penalties.
19. Power of revision.
20. Rectification of mistakes.
21. Application of provisions of Act XI of 1922.
22. Income-tax papers to be available for the purposes of this Act.
23. Failure to deliver returns or statements.
24. False statements and declaration.
25. Institution of proceedings and composition of offences.
26. Power of Central Board of Revenue to grant relief in special cases.
27. Power to make rules.

**SCHEDULE I**—Rules for the computation of profits for purposes of Excess Profits Tax.

**SCHEDULE II.**—Rules for computing the average amount of capital.

**SCHEDULE III.**—Rules for determining the amount of capital held by a company through other companies.

# ACT No. XV OF 1940.

*(Received the assent of the Governor-General on the  
6th April, 1940).*

## **An Act to impose a tax on excess profits arising out of certain businesses.**

*(As modified up-to-date).*

**W**HEREAS it is expedient to impose a tax on excess profits arising out of certain businesses in the conditions prevailing during the present hostilities ;

It is hereby enacted as follows :—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Excess Profits Tax Act, 1940.

(2) It extends to the whole of <sup>1</sup>British India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context :—

(1) “ accounting period ” in relation to any business means—

(a) where the accounts of the business are made up for successive periods of twelve months, each of such periods ;

(b) in any other case, such period as the Excess Profits Tax Officer may determine :

Provided that in determining any accounting period under sub-clause (b) the Excess Profits Tax Officer shall have regard to the period, if any, which is, or has been, determined as the previous year for that business for the purposes of the Indian Income-tax Act, 1922;

(2) “ Appellate Assistant Commissioner ” means a person appointed to be an Appellate Assistant Commissioner of Excess Profits Tax under section 3 ;

(3) “ average amount of capital ” means the average amount of capital employed in any business as computed in accordance with the Second Schedule ;

(4) “ Board of Referees ” means a Board of Referees appointed under section 3 ;

(5) “ business ” includes any trade, commerce or manufacture or any adventure in the nature of trade, commerce or manufacture or any profession or vocation, but does not include a profession carried on by an individual or by individuals in partnership if the profits of the profession depend wholly or mainly on his or their personal

1. The Act has been applied by means of Notifications of the Governor General to British Baluchistan.

qualifications unless such profession consists wholly or mainly in the making of contracts on behalf of other persons or the giving to other persons of advice of a commercial nature in connection with the making of contracts:

Provided that where the functions of a company or of a society incorporated by or under any enactment consist wholly or mainly in the holding of investments, or other property, the holding of the investments or property shall be deemed for the purpose of this definition to be a business carried on by such company or society :

Provided further that all businesses to which this Act applies carried on by the same person shall be treated as one business for the purposes of this Act ;

(6) " chargeable accounting period " means—

- (a) any accounting period falling wholly within the term beginning on the 1st day of September, 1939, and ending on the 31st day of March, 1941, and
- (b) where any accounting period falls partly within and partly without the said term, such part of that accounting period as falls within the said term :

(7) " Commissioner " means a person appointed to be a Commissioner of Excess Profits Tax under section 3 ;

(3) " company " means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession or of a law of an Indian State, and includes any foreign association whether incorporated or not which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act ;

(9) " deficiency of profits " means—

- (i) where profits have been made in any chargeable accounting period, the amount by which such profits fall short of the standard profits ;
- (ii) where a loss has been made in any chargeable accounting period, the amount of the loss added to the amount of the standard profits ;

(10) " director " includes any person occupying the position of a director by whatever name called and also includes any person who—

- (i) is a manager of the company or concerned in the management of the business ; and
- (ii) is remunerated out of the funds of the business ; and
- (iii) is the beneficial owner of not less than twenty per cent. of the ordinary share capital of the company ;

(11) " dividend " has the meaning assigned to the expression in section 2 of the Indian Income-tax Act, 1922 ;

(12) " Excess Profits Tax Officer " means a person appointed to be an Excess Profits Tax Officer under section 3 ;

(13) " income " has the meaning assigned to the expression in section 2 of the Indian Income-tax Act, 1922 ;



(14) "fixed rate" in relation to dividends on share capital, other than ordinary share capital, includes a rate fluctuating in accordance with the maximum rate of income-tax ;

(15) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Excess Profits Tax under section 3 ;

(16) "loss" means a loss computed in the same manner as, for the purposes of this Act, profits are to be computed ;

<sup>2</sup>[(16A) "ordinary share capital" has the meaning assigned to the expression in sub-section (8) of section 9] ;

(17) "person" includes a Hindu undivided family ;

(18) "prescribed" means prescribed by rules made under this Act ;

(19) "profits" means profits as determined in accordance with the First Schedule ;

(20) "standard profits" means standard profits as computed in accordance with the provisions of section 6 ;

(21) "statutory percentage means—

(a) in relation to a business carried on by a body corporate (other than a company the directors whereof have a controlling interest therein), eight per cent. per annum ;

<sup>3</sup>[(b) in relation to a business carried on by a partnership of which one or more of the partners is a body corporate (other than a company the directors whereof have a controlling interest therein), such a rate per cent. as is equivalent to—

(i) eight per cent. per annum on so much of the average amount of the capital employed in the business during the chargeable accounting period as represents the share of any such body corporate, and

(ii) ten per cent. per annum on the remainder of that amount ;

(c) in relation to a business to which neither sub-clause (a) nor sub-clause (b) applies, ten per cent. per annum :]

Provided that in relation to any decrease of capital the statutory percentage shall be in all cases six per cent. :

Provided further that where the business was commenced on or after the 1st day of July, 1938, the foregoing percentages shall be increased from eight, ten and six per cent. to ten, twelve and eight per cent., respectively ;

(22) "written down value" has the meaning assigned to that expression in sub-section (5) of section 10 of the Indian Income-tax Act, 1922.

2. This clause was inserted by s. 2 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

3. Clauses (b) and (c) were substituted for the old clause (b) by s. 2 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

3. (1) There shall be the following classes of excess profits tax authorities for the purposes of this Act, namely :—

- (a) the Central Board of Revenue ;
- (b) Commissioners of Excess Profits Tax ;
- (c) Assistant Commissioners of Excess Profits Tax, who may be either Appellate Assistant Commissioners of Excess Profits Tax or Inspecting Assistant Commissioners of Excess Profits Tax ;
- (d) Excess Profits Tax Officers ;
- (e) Boards of Referees.

(2) Every Commissioner of Excess Profits Tax, Appellate Assistant Commissioner of Excess Profits Tax, Inspecting Assistant Commissioner of Excess Profits Tax and Excess Profits Tax Officer shall be a person who is exercising the functions of Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax and Income-tax Officer, respectively under the Indian Income-tax Act, 1922.

(3) The Central Board of Revenue shall, subject to the provisions of sub-section (2), appoint such persons as Commissioners of Excess Profits Tax, Appellate Assistant Commissioners of Excess Profits Tax, Inspecting Assistant Commissioners of Excess Profits Tax and Excess Profits Tax Officers as it thinks fit and such persons shall perform their functions in respect of such cases as the Central Board of Revenue may assign to them :

Provided that such directions shall be made entirely at the discretion of the Central Board of Revenue, and, in particular, it shall be competent for that Board to assign a case or class of cases to an officer who is not exercising in respect of that case or class of cases the corresponding functions in relation to the charge of income-tax under the Indian Income-tax Act, 1922.

(4) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue :

Provided that nothing in this sub-section applies to a Board of Referees :

Provided further that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(5) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one-half shall be non-officials having business experience, and one shall be a judicial officer who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge, and who has held judicial office for a period of not less than ten years.

(6) Subject to the provisions of sub-section (5), the Central Government may make rules regulating the formation, composition and procedure of Boards of Referees.

4. <sup>4</sup>[ (1) ] Subject to the provisions of this Act, there shall, in respect of any business to which this Act applies, be charged, levied and paid on the amount by which the profits during any chargeable accounting period exceed the standard profits a tax (in this Act referred to as "excess profits tax") which shall, in respect of any chargeable accounting period ending on or before the 31st day of March 1941, be equal to fifty per cent. of that excess and shall in respect of any chargeable accounting period beginning after that date, be equal to such percentage of that excess as may be fixed by the annual Finance Act :

Provided that any profits which are, under the provisions of sub-section (3) of section 4 of the Indian Income-tax Act, 1922 exempt from income-tax, and all profits from any business of life insurance shall be totally exempt from excess profits tax under this Act.

4A. [Provided further that in case of any business which includes the mining of any mineral, any bonus paid by or through the Central Government in respect of the increased out put of the mineral shall be totally exempt from excess profits tax under this Act.]

<sup>5</sup>[ (2) Where a chargeable accounting period falls partly before and partly after the end of March, 1941 the foregoing provisions of this section shall apply as if so much of that chargeable accounting period as falls before, and so much of that chargeable accounting period as falls after, the said end of March were each a separate chargeable accounting period <sup>6</sup>[and as if the excess of profits of that separate chargeable accounting period were an apportioned part of the excess of profits arising in the whole period determined in accordance with the provisions of section 7A ]

5. This Act shall apply to every business of which any part of the profits made during the chargeable accounting period is chargeable to income-tax by virtue of the provisions of sub-clause (i) or sub-clause (ii) of clause (b) of sub-section (1) of section 4 of the Indian Income-tax Act, 1922, or of clause (c) of that sub-section :—

Provided that this Act shall not apply to any business the whole of the profits of which accrue or arise without British India where such business is carried on by or on behalf of a person who is resident but not ordinarily resident in British India unless the business is controlled in British India :

4 The old section 4 was re-numbered as sub-section (1) by s. 3. of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

4A This proviso was added by the Excess Profits Tax (Amendment) Ordinance 1944.

5 This sub-section was added by s. 3 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941). This sub-section provides for charge of the tax at the original and the increased rates, respectively, for the parts of a chargeable accounting period falling before and after 31-3-1941. Where an accounting period falls partly before and partly after the end of March, 1941, it does not become two chargeable accounting periods, one ending on 31st March, 1941, and the other commencing on 1st April, 1941. The computation of profits and of increase or decrease of capital is to be made for the whole period and the resultant excess or deficiency is to be apportioned on the time basis between the part ending at and that commencing after the end of March, 1941. In the case of an excess, the first part is to be charged at 50 per cent, and the latter part at 66 $\frac{2}{3}$  per cent.

6 These words were substituted by s. 2 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

Provided further that where the profits of a part only of a business carried on by a person who is not resident in British India or not ordinarily so resident accrue or arise in British India or are deemed under the Indian Income-tax Act 1922, so to accrue or arise, then, except where the business being the business of a person who is resident but not ordinarily resident in British India is controlled in India, this Act shall apply only to such part of the business, and such part shall for all the purposes of this Act be deemed to be a separate business :

<sup>7</sup>[Provided further that this Act shall not apply to any business the whole of the profits of which accrue or arise in an Indian State ; and where the profits of a part of a business accrue or arise in an Indian State, such part shall, for the purposes of this provision, be deemed to be a separate business the whole of the profits of which accrue or arise in an Indian State, and the other part of the business shall, for all the purposes of this Act, be deemed to be a separate business.]

6. (1) For the purposes of this Act, the standard profits of a business in relation to any chargeable accounting period shall, subject to the provisions of sub-sections (3) and (4) be an amount bearing to the profits of the business during the standard period, if in respect of that business a standard period is available, the same proportion as the chargeable accounting period bears to the standard period :

Standard profits. Provided that if the average amount of capital employed in the business during such chargeable accounting period is greater or less than the average amount of capital employed during the standard period, such amount shall be increased or decreased, as the case may be, by an amount calculated by applying the statutory percentage to the amount of such increase or decrease :

Provided further that in the case of a business which was commenced on or after the 31st day of March, 1936, the standard profits shall, at the option of the person carrying on the business, be an amount calculated by applying the statutory percentage to the average amount of capital employed in the business during such chargeable accounting period.

(2) For the purposes of this section the standard period shall, at the option of the person carrying on the business, be—

(a) the 'previous year' as determined under section 2 of the Indian Income-tax Act, 1922, for the purpose of the income-tax assessment for the year ending on the 31st day of March, 1937, or the previous year as so determined for the year ending on the 31st day of March, 1938 ; or

(b) the "previous year" as so determined for the year ending on the 31st day of March, 1937, and that for the year ending on the 31st day of March, 1939 ; or

<sup>7</sup> This proviso was added by s. 2 of the Excess Profit Tax (Second Amendment) Act, 1941 (24 of 1941).

**Note :—**Effect will not be given to this proviso in the making of any assessment under this Act in respect of any chargeable accounting period which is a "previous year" for an assessment under the Indian Income-tax Act, 1922, for any year before the year ending on 31.3.1943.

- (c) the " previous year " as so determined for the year ending on the 31st day of March, 1938, and that for the year ending on the 31st day of March, 1939 ; or
- (d) the " previous year " as so determined for the year ending on the 31st day March, 1939, and that for the year ending on the 31st day of March, 1940 :

Provided that in no case shall any period of less than nine months be taken as a standard period.

(3) If, within the period specified in the notice issued under sub-section (1) of section 13,<sup>8</sup>[or within the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section] the person carrying on the business makes an application to the Excess Profits Tax Officer in this behalf the Excess Profits Tax Officer shall refer the application to the Board of Referees, and if the Board is satisfied that during the standard period the profits of the business were less than might at the beginning of that period have been reasonably expected, it may direct that the standard profits shall be computed as if the profits during the standard period were such greater amount as it thinks just :

Provided that such amount shall not exceed the statutory percentage of the average amount of the capital employed in the business unless the Board is satisfied that owing to some specific cause peculiar to the business it is just that a greater amount should be allowed :

<sup>9</sup>[Provided further that a determination on an application under this sub-section—

- (a) shall have effect with respect to all subsequent chargeable accounting periods ;
- (b) shall exclude any further application under this sub-section.]

(4) The standard profits shall be taken to be rupees thirty-six thousand in any case in which the standard profits computed in accordance with sub-section (1) are less than this sum :

Provided that if the chargeable accounting period is greater or less than one year the sum of rupees thirty-six thousand shall for the purposes of this sub-section be increased or decreased proportionately.

(5) Where the standard period includes any period prior to the commencement of Part III of the Government of India Act, 1935, during which Burma was part of British India, there shall, in computing the standard profits of a business under this section be excluded from the profits of the business during the standard period so much of such profits as arose or accrued or were received in Burma unless such profits are also included in the profits of the business during the chargeable accounting period.

<sup>8</sup> These words were inserted by s. 3 of the Excess profits-tax (Amendment) Act, 1940 (42 of 1940).  
<sup>9</sup> This proviso was added, *ibid*.

7. Where a deficiency of profits occurs in any chargeable accounting period in any business, the profits of the business chargeable with excess profits tax shall be deemed to be reduced and relief shall be granted in accordance with the following provisions :—

Relief on occurrence of deficiency of profits.

- (a) the aggregate amount of the profits so chargeable for the previous chargeable accounting periods shall be deemed to be reduced by the amount of the deficiency of profits and the amount of excess profits tax payable in respect thereof shall be deemed to be reduced accordingly and the relief necessary to give effect to the reduction shall be given by repayment or otherwise ;
- (b) where the amount of the deficiency of profits exceeds the aggregate amount of the profits so chargeable for the previous chargeable accounting periods, or where there is no previous chargeable accounting periods, the balance of the deficiency of profits or the whole of the deficiency, as the case may be, shall be applied in reducing any profits so chargeable for the next subsequent chargeable accounting period, and if and so far as it exceeds the amount of those profits, any profits so chargeable for the next subsequent chargeable accounting period and so on :

<sup>10</sup>[Provided that a deficiency of profits occurring in a chargeable accounting period beginning on or after the 1st day of April, 1941, shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period beginning on or after the said 1st day of April, and a deficiency of profits occurring

10 These provisos were added by s. 4 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941). These provisos provide for the setting off of deficiencies and give the assessee a claim to have a deficiency occurring in a period after the end of March, 1941, set off against an excess occurring in a period after the end of March, 1941. It is provided that for this purpose a previous set off against an excess occurring in a period before the end of March, 1941, may be cancelled.

The effect of this clause may be best illustrated by an example :—

A concern which makes up its accounts regularly to the 31st December shows the following results :—

Chargeable accounting period of 4 months to 31st December 1939. Excess profits Rs. 20,000 assessed at 50 %

Chargeable accounting period of 12 months to 31st December 1940. Excess profits Rs. 10,000 assessed at 50 %

Chargeable accounting period of 12 months to 31st December 1941. Deficiency Rs. 12,000, apportioned—  
Rs. 3,000 to the 3 months to 31st March 1941 ;  
Rs. 9,000 to the 9 months to 31st December 1941.

set-off of the Rs. 12,000 deficiency is claimed against the excess profits of previous periods under Section 9 of the Act, and tax is refunded at 50 per cent. = Rs. 6,000, the set-off being, under the clause, provisional only so far as the Rs. 9,000 for the period after the 31st March, 1941, is concerned.



or the taking in of a partner, the persons carrying on the business after the change may, by notice given in writing before the prescribed date to the Excess Profits Tax Officer, elect that, for the purposes of the provisions of this Act relating to the computation of standard profits, the business shall not be deemed to have been discontinued.

(3) A business shall not, for the purposes of the provisions of this Act relating to the computation of standard profits, be deemed to be discontinued by reason of any change occurring on or after the 1st day of September, 1939, in the persons carrying it on, and the standard profits of the business in relation to any chargeable accounting period shall be computed accordingly, and, in particular, in computing the capital employed in the business after the change,<sup>12</sup>[and in considering, for the purposes of computing the profits of and the capital employed during any chargeable accounting period, whether any and, if so, what deductions are to be made in respect of depreciation of buildings, plant and machinery,] no regard shall be had to any consideration given in respect of the transfer of the business or any of the assets thereof on the occasion of the change.

(4) Where, on or after the 1st day of September, 1939, two or more businesses are amalgamated, the resulting business shall be treated for the purposes of the provisions of this Act relating to the computation of standard profits as if—

- (a) it had been in existence throughout the period during which there were in existence any of the former businesses ;
- (b) any profits made or losses incurred or capital employed in any of those former businesses had been made, incurred or employed in the resulting business ; and
- (c) any assets of any of those former businesses had become assets of the resulting business when they become assets of the former business ;

and, in particular, in computing the capital employed in the resulting business<sup>13</sup>[and in considering, for the purposes of computing the profits of, and the capital employed during, any chargeable accounting period, whether any and, if so, what deductions are to be made in respect of depreciation of buildings, plant and machinery,] no regard shall be had to any consideration given in respect of the transfer of any of those former businesses or any of the assets thereof on the occasion of the amalgamation.

(5) Where, on or after the 1st day of September, 1939, part of a business is transferred as a going concern by the person theretofore carrying it on to another person, the part transferred and the part not transferred shall each be deemed for the purposes of the provisions of this Act relating to the computation of standard profits to be a continuation of the original business, and the said provisions,

<sup>12</sup> These words were inserted by s. 4 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

<sup>13</sup> These words were inserted, *ibid*.

including the provisions of this section relating to amalgamations, shall apply accordingly : <sup>14</sup>\* \* \*

Provided that, for the purposes aforesaid, such apportionments shall be made of the profits made, and losses incurred, and the capital employed, in the original business, and of any assets of the original business as may appear to the Excess Profits Tax Officer, or on appeal in the prescribed time and manner to the Board of Referees, to that Board to be just.

(6) Notwithstanding anything in the foregoing provisions of this section, where a business was carried on immediately before the 1st day of April, 1936, and that business, or the main part of that business, was transferred after the said day and before the 1st day of September, 1939, by the person carrying it on to another person, the Excess Profits Tax Officer, if he is satisfied that the business carried on after the transference was not substantially different from the business or part transferred, shall, on the application of the person carrying on the business after the transference, treat that person, for the purposes of the provisions of this Act relating to the computation of standard profits, as if he had carried on the transferred business or part of the business as from the date of the commencement of the business. <sup>15</sup> \* \* \*

(7) Where, on or after the 1st day of September, 1939, a partner in a firm carrying on a business to which this Act applies dies, then notwithstanding anything contained in sub-section (1) any deficiency of profits in respect of any chargeable accounting period ending on or before the date of his death shall, if it has not been fully applied in reducing the profits of any chargeable accounting period under section 7, be carried forward and applied in reducing any profits from the same business carried on by the surviving partner or partners in the first chargeable accounting period after the death of the partner, and if and so far as it exceeds the amount of those profits, in reducing any profits from such business in the next subsequent chargeable accounting period and so on.

<sup>16</sup>[ (8) Where—

- (a) a business is, by virtue of sub-section (2) or sub-section (3), deemed not to have been discontinued ; or
- (b) a business is, by virtue of sub-section (4), to be treated as if it had been in existence throughout the period during which there was in existence any other business ; or
- (c) a business is, by virtue of sub-section (5), to be treated as a continuation of another business ; or
- (d) any person who is carrying on a business ; is treated, by virtue of sub-section (6), as having carried on the business as from a date before the transfer,

<sup>14</sup> The words "subject to any necessary modifications" were omitted by s. 4 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

<sup>15</sup> The words "subject, however to such modifications (including modifications as respects the computation of capital) as he may consider just" were omitted, *ibid.*

<sup>16</sup> This sub-section was newly added, *ibid.*

the provisions of this Act relating to the computation of profits and capital for the purposes of excess profits tax shall, both as respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Excess Profits Tax Officer may think just, and the Excess Profits Tax Officer may make such alterations in the periods which would otherwise be the chargeable accounting periods of the business as he thinks proper :

Provided that if the Excess Profits Tax officer makes any such modifications and the person carrying on the business is dissatisfied with the modifications so made, or if the person carrying on the business is dissatisfied with the refusal of the Excess Profits Tax Officer to make any such modifications, he may, at any time before the expiry of forty-five days from the date on which the order of the Excess Profits Tax Officer is communicated to him, appeal to the Board of Referees through the Excess Profits Tax Officer.]

9. (1) Where any interest, annuity or other annual payment, or any royalty or rent, is paid by one company to another company, and one of those companies is a subsidiary of the other, or both are subsidiaries of a third company, the capital, profits and losses of both companies shall be computed for the purposes of this Act as if—

Inter-connected  
companies.

- (a) the interest, annuity, annual payment, royalty or rent were not payable ;
- (b) any debt in respect of which any such interest is payable did not exist ; and
- (c) any asset in respect of which any such royalty or rent is payable were the property of the company paying the royalty or the rent.

<sup>17</sup>[ (1A) Where

- (a) any debt is owing to any company by another company ; and
- (b) one of those companies is a subsidiary of the other, or both are subsidiaries of a third company ; and
- (c) no interest is payable in respect of the debt, but the circumstances in which the debt came into existence or is allowed to continue to exist are such that the debt represents in substance capital employed in the business of the debtor company,

the capital of both companies shall be computed as if the debt did not exist.]

(2) Where—

- (a) a company (hereinafter referred to as “the principal company”) is resident in British India and is not a subsidiary of any other company resident in British India ; and
- (b) during the whole or any part of any chargeable accounting period of the principal company, another company,

<sup>17</sup> This sub-section was inserted by s 5 of the Excess Profits Tax Amendment) Act, 1940 (42 of 1940).

whether or not resident or carrying on business within British India (hereinafter referred to as "the subsidiary company") is a subsidiary of the principal company.

the following provisions of this section shall, subject to the provisions of section 5, have effect in relation to that chargeable accounting period.

(3) If the subsidiary company is a subsidiary of the principal company throughout the chargeable accounting period, such capital employed in, and profits or losses arising from, the business of the subsidiary company as is employed or arise in—

(i) the chargeable accounting period ; or

(ii) any year constituting or comprised in the standard period of the principal company,

shall be treated for the purposes of this Act as if it or they were capital employed in, or as the case may be, profits or losses arising from, the business of the principal company.

(4) If the subsidiary company is a subsidiary of the principal company during part only of the chargeable accounting period, the excess or deficiency of profits of the subsidiary company for that part of that period shall be treated as increasing or, as the case may be decreasing the excess or deficiency of profits of the principal company for the whole period and shall not be deemed to be an excess or deficiency of profits of the subsidiary company.

In this sub-section, the expressions "excess" and "deficiency" mean, in relation to profits, an excess or deficiency in relation to the standard profits of the subsidiary company or, as the case may be, the principal company.

(5) In any case to which sub-section (3) or sub-section (4) applies, such alteration, if any, of the periods which would otherwise be the chargeable accounting periods of the subsidiary company shall be made as the Central Board of Revenue may direct.

(6) For the purposes of this section, a company shall be deemed to be a subsidiary of another company if and so long as not less than nine-tenths of its ordinary share capital is owned by that other company, whether directly or through another company or other companies, or partly directly and partly through another company or other companies.

(7) The amount of ordinary share capital of one company owned by a second company through another company or other companies, or partly directly and partly through another company or other companies shall be determined in accordance with the provisions of the Third Schedule.

(8) In this section and the Third Schedule references to ownership shall be construed as references to beneficial ownership, and the expression "ordinary share capital" in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company,

(9) The principal company shall be entitled to allocate to its subsidiary company or companies the respective proportionate shares of the excess profits tax payable by the whole group.

(10) The excess profits tax payable by virtue of this section by the principal company in respect of the profits of any subsidiary company shall, for the purposes of section 12, be deemed to have been paid by the subsidiary company and not by the principal company.

<sup>18</sup>[10. (1) In computing profits for the purposes of this Act no deduction shall be made in respect of any transaction or operation of any nature if and so far as it appears that the transaction or operation has artificially reduced the profits.

Artificial transactions.

(2) If the Excess Profits Tax Officer is satisfied that any person has entered into or carried out any transaction or operation by which the profits have been or would be artificially reduced, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that such person shall pay, in addition to any excess profits tax for which he is or, but for such transaction or operation, would be liable, a penalty not exceeding the tax evaded or sought to be evaded.]

<sup>19</sup>[10A. (1) Where the Excess Profits Tax Officer is of opinion that the main purpose, for which any transaction or transactions was or were effected [whether before or after the passing of the Excess Profits Tax (Second Amendment) Act, 1941] was the avoidance or reduction of liability to excess profits tax, he may, with the previous approval of the Inspecting Assistant Commissioner, make such adjustments as respects liability to excess profits tax as he considers appropriate so as to counteract the avoidance or reduction of liability to excess profits tax which would otherwise be effected by the transaction or transactions.

Transactions designed to avoid or reduce liability to excess profits tax.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the powers conferred thereby extend—

18. This section was substituted for the old section 10 by s. 5 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941). The new section incorporates the provisions contained in Rule 9 of Part I of the Seventh Schedule to the English Income Tax (No. 2) Act, 1939, while retaining the substance of sub-section (3) of the old s. 10. The reason for the substitution is that as the new s. 10A inserted by the Excess Profits Tax (Second Amendment) Act, 1941 follows the wording of the corresponding provision in the English law it has been thought fit to adopt the wording of the corresponding English provision in s. 10 also.

19. This section was inserted by s. 6 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941). Section 10 of the Act deals with *fictitious* or *artificial* transactions entered into for the purpose of reducing excess profits chargeable to tax, but it does not provide for cases where tax is avoided by transactions which are neither fictitious nor artificial. Section 10A remedies this defect and covers *any* transaction which has for its purpose the avoidance of excess profits tax,

S. 10A is in complete conformity with the wording of the corresponding English provision, so as to secure that action cannot be taken under the section unless the Excess Profits Tax Officer is of opinion that not merely one of the purposes, but the *main purpose* of a transaction was the avoidance or reduction of liability to excess profits,

- (a) to the charging with excess profits tax of persons who but for the adjustments would not be chargeable with any tax or would not be chargeable to the same extent ;
- (b) to the charging of a greater amount of tax than would be chargeable but for the adjustments.

(3) Any person aggrieved by a decision of the Excess Profits Tax Officer under this section may appeal in the prescribed time and manner to the Appellate Tribunal. ]

11. (1) The Central Government may by notification in the official Gazette make provision for the granting of relief in cases where both excess profits tax under this Act and excess profits tax under any law in force in the United Kingdom, in any Indian State, or in any other part of His Majesty's Dominions have been paid upon the profits of any business if it appears to the Central Government that the laws of the United Kingdom or of that Indian State or of that other part of His Majesty's Dominions provide for corresponding relief in respect of excess profits tax charged on profits both in the United Kingdom or in that State or in that part and in British India :

Provided that where under section 19 of the Finance No. (2) Act, 1939, national defence contribution has been paid in the United Kingdom in lieu of excess profits tax, that portion of the national defence contribution so paid which is equal to the excess profits tax which would otherwise have been payable shall, for the purposes of this sub-section, be deemed to be excess profits tax paid in the United Kingdom.

(2) If any person, who has paid excess profits tax under this Act for any chargeable accounting period in respect of profits arising outside India in a country the laws of which do not provide for any relief in respect of excess profits tax charged in British India, proves that he has paid excess profits tax under the laws of the said country in respect of the same profits, he shall be entitled to the deduction from the excess profits tax payable in British India of a sum equal to one-half thereof or to one-half of the excess profits tax payable in the said country, whichever is the less.

12. (1) The amount of the excess profits tax payable in respect of a business for any chargeable accounting period diminished by any amount allowable by way of relief under the provisions of section 11, shall, in computing for the purposes of income-tax or super-tax the profits and gains of that business, be allowed to be deducted as an expense incurred in that period.

(2) There shall also be so deducted the amount of any excess profits tax payable under any law in force in a country outside British India on the profits of the business in respect of any chargeable accounting period <sup>20</sup>[to the extent to which such profits are

20 These words were substituted for the words "to the extent that such profits arose in the said country" by s. 6 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).



liable to excess profits tax under this Act after diminishing such amount by any amount which is allowable by way of relief by repayment, set off or otherwise under any law in the country where the tax is payable providing for the granting of relief in that country where excess profits tax has also been charged in British India :

Provided that where, under the provisions of this Act relating to deficiencies of profits or under any corresponding law in force in the said country without British India, relief is given by way of repayment from excess profits tax chargeable for any chargeable accounting period previous to that in which the deficiency occurs, the amount of the deduction allowed under sub-section (1) or sub-section (2) shall not be altered, but the amount repayable shall be taken into account in computing the profits and gains of the business for the purposes of income-tax as if it were a profit of the business accruing in the <sup>21</sup>[previous year (as determined for that business for the purposes of the Indian Income-tax Act, 1922) ] in which the deficiency of profits occurs.

13. (1) The Excess Profits Tax Officer may, for the purposes of this Act, require any person whom he believes to be engaged in any business to which this Act applies, or to have been so engaged during any chargeable accounting period, or to be otherwise liable to pay excess profits tax, to furnish within such period, not being less than sixty days from the date of the service of the notice, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) with respect to any chargeable accounting period specified in the notice the profits of the business and the standard profits of the business as computed in accordance with the provisions of section 6 or the amount of deficiency available for relief under section 7 :

Issue of notices for assessment. Provided that the Excess Profits Tax Officer may, in his discretion, extend the date for the delivery of the return.

(2) The Excess Profits Tax Officer may serve on any person, upon whom a notice has been served under sub-section (1), a notice requiring him on a date to be therein specified to produce, or cause to be produced, such accounts or documents as the Excess Profits Tax Officer may require and may from time to time serve further notices in like manner requiring the production of such further accounts or documents or other evidence as he may require :

Provided that the Excess Profits Tax Officer shall not require the production of any accounts relating to a period prior to the "previous year" as determined under section 2 of the Indian Income-tax Act, 1922, for the purpose of the income-tax assessment or the year ending on the 31st day of March, 1937.

14. (1) The Excess Profits Tax Officer shall, by an order in writing after considering such evidence, if any, as he has required under section 13, assess to the best of his judgment the profits liable to excess profits tax and the Assessments.

<sup>21</sup> These words were substituted for the words "chargeable accounting period", *ibid.*

amount of excess profits tax payable on the basis of such assessment, or if there is a deficiency of profits, the amount of that deficiency and the amount of excess profits tax, if any, repayable and shall furnish a copy of such order to the person on whom the assessment has been made.

(2) Excess profits tax payable in respect of any chargeable accounting period shall be payable by the person carrying on the business in that period.

(3) Where two or more persons were carrying on the business jointly in the chargeable accounting period, the assessment shall be made upon them jointly and, in the case of a partnership, may be made in the partnership name.

(4) Where by virtue of the foregoing provisions an assessment could, but for his death, have been made on any person either solely or jointly with any other person, or persons, the assessment may be made on his legal representative either solely or jointly with that other person or persons, as the case may be.

15. If in consequence of definite information which has come into his possession, the Excess Profits Tax Officer discovers that profits of any chargeable accounting period chargeable to excess profits tax have escaped assessment, or have been underassessed, or have been the subject of excessive relief, he may at any time within five years of the end of the chargeable accounting period in question serve on the person liable to such tax a notice containing all or any of the requirements which may be included in a notice under section 13, and may proceed to assess or reassess the amount of such profits liable to excess profits tax and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section.

16. If the Excess Profits Tax Officer, the Appellate Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under sub-section (1) of section 13, or to produce or cause to be produced the accounts or documents or other evidence required by the Excess Profits Tax Officer under sub-section (2) of that section, or has concealed particulars of the profits made by or capital employed in the business, or has deliberately furnished inaccurate particulars of such profits or capital, he may direct that such person shall pay by way of penalty, in addition to the amount of any excess profits tax payable, a sum not exceeding—

- (a) where the person has failed to furnish the return required under sub-section (1) of section 13, the amount of the excess profits tax payable ; and
- (b) in any other case, the amount of excess profits tax which would have been avoided if the return made had been accepted as correct :

Provided that the Excess Profits Tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner.

17. (1) Any person aggrieved by a decision made in pursuance of section 8, or objecting to the amount of excess profits tax for which he is liable as assessed by the Excess Profits Tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty imposed by the Excess Profits Tax Officer, or to the amount of any deficiency of profits as assessed by the Excess Profits Tax Officer, or to the amount allowed by the Excess Profits Tax Officer by way of relief under any provision of this Act or to any refusal by the Excess Profits Tax Officer to grant relief may appeal to the Appellate Assistant Commissioner :

Provided that no appeal shall lie against a determination of the amount of the profits of any standard period where those profits have been determined in accordance with the <sup>22</sup>[second proviso] to rule 1 of the First Schedule except in respect of adjustments made under the provisions of that Schedule :

<sup>23</sup>[Provided further that no appeal shall lie under this section against any apportionment made by the Excess Profits Tax Officer under the proviso to sub-section (5) of section 8, against any <sup>24</sup>[refusal to make modifications or against any modifications] made by the Excess Profits Tax Officer under sub-section (8) of section 8, against any decision of the Excess Profits Tax Officer under Rule 11 of the First Schedule, or against any decision of the Board of Referees or the Central Board of Revenue. ]

(2) An appeal shall ordinarily be presented within forty-five days of the receipt of the notice of demand relating to the assessment or penalty objected to, or in the case of an appeal against the assessment of a deficiency of profits, within forty-five days of the receipt of the copy of the order determining the deficiency, or in the case of an appeal against the amount of a relief granted or a refusal to grant relief, within forty-five days of the receipt of the intimation of the order granting or refusing to grant the relief, but the Appellate Assistant Commissioner may admit an appeal after the expiration of that period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) An appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The Appellate Assistant Commissioner shall hear and determine the appeal and, subject to the provisions of this Act, shall pass such orders as he thinks fit, and such orders may include an order enhancing the assessment or a penalty :

Provided that an order enhancing an assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) The procedure to be adopted in the hearing and determination of appeals shall be in accordance with the rules made in this behalf by the Central Board of Revenue.

<sup>22</sup> These words were substituted for the words "first proviso" by s. 5 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

<sup>23</sup> This proviso was substituted for the old second proviso by s. 7 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

<sup>24</sup> These words were substituted for the word "modifications" by s. 5 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

Appeals to  
Commissioner  
against  
Appellate  
Assistant  
Commissioner's  
orders  
imposing  
penalties or  
enhancing  
assessments  
or penalties.

18. (1) Any person objecting to an order passed by an Appellate Assistant Commissioner imposing on him a penalty under section 16 or enhancing his assessment or enhancing a penalty under section 17 may appeal to the Commissioner within thirty days of the date on which he was served with notice of such order.

(2) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

(3) On the coming into operation of Part II of the Indian Income-tax (Amendment) Act, 1939, this section shall cease to have effect.

19. (1) The Commissioner may of his own motion call for the record of any proceeding under this Act which has been taken by any Excess Profits Tax Officer or Appellate Assistant Commissioner subordinate to him, and on receipt of the record may make such enquiry, or cause such enquiry to be made, and subject to the provisions of this Act may pass such order thereon (including an order enhancing an assessment) as he thinks fit:

Provided that he shall not pass any order prejudicial to a person to whose business this Act applies without hearing him, or giving him a reasonable opportunity of being heard.

(2) On the coming into operation of Part II of the Indian Income-tax (Amendment) Act, 1939, sub-section (1) shall cease to have effect, but thereafter any Excess Profits Tax Officer or any person in respect of whose business an order under section 14 has been passed who objects to an order passed by an Appellate Assistant Commissioner under section 16 or section 17 may, within the prescribed time and in the prescribed manner, appeal against such order to the Appellate Tribunal constituted under the Indian Income-tax Act, 1922, and that Tribunal shall have all such powers in disposing of the appeal as it has in respect of appeals preferred to it under the Indian Income-tax Act, 1922.

20. The Commissioner may, at any time within four years from the date of any order passed whether by himself or by any Appellate Assistant Commissioner or Excess Profits Tax Officer under this Act, rectify any mistake in any evidence recorded during assessment or appellate proceedings, or any mistake apparent from the record and shall within the like period rectify any mistake apparent from the record which has been brought to his notice by a person to whose business this Act applies:

Provided that no such rectification shall be made having the effect of enhancing the liability of any person unless that person has been given a reasonable opportunity of being heard.

21. The provisions of sections 4A, 4B, 10, 13, 24B, 29, 36, to 44C (inclusive), 45 to 48 (inclusive), 49E, 49F, 50, 54, 61 to 63 (inclusive), 65 to 67A (inclusive) of the Indian Income-tax Act, 1922, shall apply with such modifications, if any, as may be prescribed as

Application of  
provisions of

Power of  
revision.

Rectification  
of mistakes.

if the said provisions were provisions of this Act and referred to excess profits tax instead of to income-tax, and every officer exercising powers under the said provisions in regard to income-tax may exercise the like powers under this Act in regard to excess profits tax in respect of cases assigned to him under sub-section (3) of section 3 as he exercises in relation to income-tax under the said Act :

Provided that references in the said provisions to the assessee shall be construed as references to a person to whose business this Act applies.

**22.** (1) Notwithstanding anything contained in the Indian Income-tax Act, 1922, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.

Income-tax papers to be available for the purposes of this Act.

(2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Indian Income-tax Act, 1922.

**23.** If any person fails, without reasonable cause or excuse, to furnish in due time any return or statement, or to produce, or cause to be produced, any accounts or documents required to be produced under section 13, he shall on conviction by a Magistrate be punishable with fine which may extend to five hundred rupees, and with a further fine which may extend to fifty rupees for every day during which the default continues.

Failure to deliver returns or statements.

**24.** If a person makes in any return required under section 13 any statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable on conviction by a Magistrate with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

False statement and declaration.

**25.** (1) A person shall not be proceeded against for an offence under section 23 or section 24 except at the instance of the Inspecting Assistant Commissioner.

Institution of proceedings and composition of offences.

(2) No prosecution for an offence punishable under section 23 or section 24 or under the Indian Penal Code shall be instituted in respect of the same facts as those in respect of which a penalty has been imposed under this Act.

(3) The Inspecting Assistant Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 23 or section 24.

**26.** (1) If <sup>25</sup>[on an application made to it through the Excess Profits Tax Officer] the Central Board of Revenue is satisfied in the cases of any business that special circumstances exist which render it inequitable that the standard profits of the business in relation to any chargeable accounting period should be computed in accordance with the provisions of sub-section (1) of

Power of Central Board of Revenue to grant relief in special cases.

<sup>25</sup> These words were inserted by s. 8 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).



section 6, and that no relief or insufficient relief has been granted under the provisions of sub-section (3) of that section, the Central Board of Revenue may direct that the standard profits of the business shall be computed to be such greater amount as the Central Board of Revenue thinks just :

Provided that such amount shall not exceed the statutory percentage of the average amount of the capital employed in the business unless the Central Board of Revenue is satisfied that owing to some specific cause peculiar to the business it is just that a greater amount should be allowed and that the relief, if any, afforded by the Board of Referees under sub-section (3) of section 6 is inadequate :

\* \* \* \* \*

<sup>26</sup>[Provided further that a determination on an application under this sub-section—

- (a) shall have effect with respect to all subsequent chargeable accounting periods ;
- (b) shall exclude any further application under this sub-section.]

(2) Without prejudice to the generality of the provisions of sub-section (1) the Central Board of Revenue shall, in considering the making of direction under that sub-section, have regard to the following circumstances, namely :

- (a) that the capital employed in a business commenced on or after the 1st day of July, 1938, is so small in relation to the volume of the activities of the business that to compute the standard profits in accordance with the provisions of section 6 would be inequitable, taking into account the normal profits made in similar businesses ;
- (b) that owing to the nature of the business heavy expenditure by way of preliminary expenses or expenses in connection with experimental or development work has been incurred in accounting periods closely preceding the chargeable accounting period and that during the chargeable accounting period such expenditure would normally fall to be written off wholly or partly in the books of the person chargeable to excess profits tax ;
- (c) that the business is of a pioneer nature, that is to say, is concerned with an industrial process or a form of manufacture or production not undertaken in British India before the 1st day of April, 1932, and has not been in existence long enough to have paid income-tax for the previous year as determined for the purpose of the income-tax assessment for the year beginning on the 1st day of April, 1937.

(3) If <sup>27</sup>[on an application made to it through the Excess Profits Tax Officer] the Central Board of Revenue is satisfied that

<sup>26</sup> This Proviso was added, *ibid.*

<sup>27</sup> These words were inserted by s. 8 of the Excess Profits Tax (Amendment) Act, 1940, (42 of 1940).



the computation in accordance with the provisions of Schedule I of the profits of a business during any chargeable accounting period would be inequitable, owing to any of the following circumstances, namely :—

- (a) any postponement or suspension, as a consequence of the present hostilities, of renewals or repairs, or
- (b) the provision of buildings, plant or machinery which will not be required for the purposes of the business after the termination of the present hostilities, or
- (c) difficulties in bringing into British India income arising outside British India where the country in which the income accrued prohibits or restricts by its laws the remittance of money to British India, and loss in the remittance to British India of such income because of fluctuations in the rate of exchange between that country and British India ; <sup>28</sup>[or
- (d) in the case of any business which includes the winning of any mineral (including mineral oil) the winning of which is of exceptional importance for the prosecution of the present war, an increase for the output of the mineral which was essential in the national interest and which has had the effect of shortening the period during which but for such increased wartime output the source of the mineral might have been expected to be exhausted,]

the Central Board of Revenue may direct that such allowances shall be made in computing the profits of the business during that chargeable accounting period as the Central Board of Revenue thinks just :

Provided that in making such direction the Central Board of Revenue may impose such conditions as it deems appropriate.

<sup>29</sup>[ (4) An application to the Central Board of Revenue under this section shall be presented to the Excess Profits Tax Officer before the expiry of the period specified in the notice issued under sub-section (1) of section 13 or of the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section, but in the case of an application under sub-section (1) of this section, if the person carrying on the business has made or is making an application under sub-section (3) of section 6, the application

<sup>28</sup> This word and clause (d) were inserted by s. 7 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941). The object of this new provision has been stated thus in the Statement of Objects and Reasons :—

“ There are business concerns engaged in the winning of oil or other minerals, which are of exceptional importance for the prosecution of the war, in which an increase of output is essential in the national interest, but such increase will bring about an earlier exhaustion of the source of the oil or mineral than would have occurred in the normal course. An increase in the standard profit is inappropriate to the varying circumstances of chargeable accounting periods and it is provided, therefore, that allowance may be made for this premature exhaustion in arriving at the profits of any chargeable accounting period.”

<sup>29</sup> This sub-section was added, by s. 8 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

shall be presented to the Excess Profits Tax Officer before the expiry of forty-five days from the date on which the order of the Board of Referees disposing of the application under sub-section (3) of section 6 is communicated to the person who has made that application.]

27. (1) The Central Board of Revenue may, subject to the control of the Central Government, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the procedure to be followed on appeals, applications for rectification of mistakes, and applications for refunds ;
- (b) provide for the adaptation to excess profits tax of any of the provisions of the Indian Income-tax Act, 1922, which are made applicable to excess profits tax by section 21 ; or of any rules made under any such provision ;
- (c) provide in regard to companies whose business consists wholly or mainly in the dealing in or holding of investments for the granting of exemption or relief from liability to excess profits tax of profits derived from investments in other companies the profits of which have been subjected to excess profits tax in British India ;
- (d) provide for any matter which by, or under, this Act is to be prescribed.

(3) The power to make rules conferred by this section shall be exercised in like manner as the power to make rules under section 59 of the Indian Income-tax Act, 1922.

## SCHEDULE I.

[See section 2 (19).]

### *Rules for the computation of profits for purposes of Excess profits Tax.*

1. The profits of a business during the standard period, or during any chargeable accounting period, shall be separately computed, and shall, subject to the provisions of this Schedule, be computed on the principles on which the profits of a business are computed for the purposes of income-tax under section 10 of the Indian Income-tax Act, 1922 :

<sup>1</sup>[Provided that any sums <sup>2</sup>[(other than any interest paid by a firm to a partner of the firm)] excluded under the proviso to clause (iii) of sub-section (2) or clause (a) of sub-section (4) of that section from the allowances made in computing the profits of the

<sup>1</sup> This proviso was inserted by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

<sup>2</sup> These brackets and words were inserted by s. 9 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941) and shall have retrospective effect.

business for the purposes of income-tax shall, if paid, be included in those allowances when computing the profits of the business for the purposes of excess profits tax:]

Provided <sup>3</sup>[further] that where the profits during any standard period have already been determined for the purposes of an assessment under the Indian Income-tax Act, 1922, such profits as so determined shall, subject to the adjustments required by this Schedule, be taken as the profits during that period for the purposes of excess profits tax:

Provided further that where a standard period or chargeable accounting period is not an accounting period, the profits or losses of the business during any accounting periods wholly or partly included within the standard period or chargeable accounting period shall be so computed as aforesaid, and such division and apportionment to specific period of those profits or losses and such aggregation of those profits and losses or any apportioned part thereof shall be made as appears necessary to arrive at the profit during the standard period or chargeable accounting period; and any such apportionment shall be made in proportion to the number of months or fractions of months in the respective periods unless the Excess Profits Tax Officer, having regard to any special circumstances, otherwise directs.

2. The profits of a business during the standard period shall be computed on the same basis and in the same manner as the profits of that business are under the Indian Income-tax Act, 1922, as amended by the Indian Income-tax (Amendment) Act, 1939, computed for the chargeable accounting period, notwithstanding that the Indian Income-tax (Amendment) Act, 1939, may not have been in force in the standard period.

3. (1) The principle of adding the allowance for depreciation for any one period to the allowance for depreciation for any subsequent period and deeming it to be part of the allowance for such subsequent period shall not be followed.

(2) No allowance shall be made for any loss other than a loss sustained in a business to which this Act applies.

(3) Nothing in this Act shall be construed as permitting the application, in computing profits for the purposes of the excess profits tax, of the provisions of sub-section (2) of section 24 of the Indian Income-tax Act, 1922.

4. (1) Income received from investments shall be included in the profits in the cases and to the extent provided in sub-rules (2), <sup>4</sup>[(2A)] and (4) of this rule and not otherwise.

(2) In the case of the business of a building society, or of a moneylending business, banking business, insurance business or business consisting wholly or mainly in the dealing in or holding of investments, the profits shall include all income received from investments, whether or not such income is included in the profits charged under section 10 of the Indian Income-tax Act, 1922, or is

<sup>3</sup> This word was inserted by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

<sup>4</sup> The brackets, figure and letter "(2A)" were inserted by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

charged under any other section of that Act, or has been subjected to deduction of tax at source or is free of or exempt from income-tax.

<sup>5</sup>[ (2A) In the case of a business part of which consists in banking, insurance or dealing in investments, not being a business to which sub-rule (2) of this rule applies, the profits shall include all income received from investments held for the purposes of that part of the business, being income to which the persons carrying on the business are beneficially entitled,]

(3) Notwithstanding anything contained in sub-rule (2) <sup>6</sup>[or (2A)] where the profits of a subsidiary company are under the provisions of section 9 to be included in the profits of the principal company for the purposes of assessment to excess profits tax, dividends from the subsidiary company out of such profits shall not also be included in the profits of the principal company.

(4) In the case of a business which consists wholly or partly in the letting out of property on hire, the income from the property shall be included in the profits of the business whether or not it has been charged to income-tax under section 9 of the Indian Income-tax Act, 1922, or under any other section of that Act.

(5) Where the person carrying on a business is the beneficial owner of any investments, the income from which is by virtue of the provisions of this rule not to be taken into account in computing the profits of the business, and a deduction would, apart from the provision of this rule, fall to be made in respect of interest on borrowed money, the deduction (if any) to be made in respect of that interest shall be computed as if the principal of the borrowed money were reduced by the value of those investments:

Provided that where the person carrying on the business is not a company, no such reduction shall be deemed to be made in the principal of any borrowed money in respect of any investments unless the investments are mortgaged, charged or pledged as security for the repayment of that money and interest thereon.

5. If at any time after the close of the standard period, any increase in the capital employed in a business has been effected by means of a loan from a bank carrying on a *bona fide* banking business,\* or by means of a public issue of debentures secured on the property of the company, the interest on so much of the loan or debentures as has been utilised in effecting the increase in the capital shall not be deducted in computing the profits for the purposes of excess profits tax and, notwithstanding the provisions of rule 2 of Schedule II, the amount of such loan or debentures shall not be deducted in arriving at the amount of the capital employed in the business.

<sup>5</sup> Sub-rule (2A) was inserted, *ibid*.

<sup>6</sup> These words, brackets and figures were inserted, *ibid*.

\*It should be observed that, provided that the business is a '*bona fide* banking business' Rule 5 may be applicable whatever the status of the 'person' carrying it on. The rule is not restricted to banking companies." (Instructions to Excess Profits Tax Officers by Central Board of Revenue).

<sup>7</sup>[5A. (1) In computing for any chargeable accounting period ending after the end of March, 1941, and in relation thereto for the standard period, if any, the profits of a business other than a business to which sub-rule (2) of rule 4 of this Schedule applies, or the profits of a part of a business other than a part of business to which sub-rule (2A) of the said rule applies, no deduction shall be made in respect of interest on borrowed money or in respect of any other consideration given for the use of borrowed money :

Provided that, as respects any such chargeable accounting period which commences before the said end of March, the application of this rule shall be subject to the provisions of section 7A of this Act :

Provided further that this rule shall not apply to the computation of profits of any business for any chargeable accounting period the standard profits for which are ascertained by reference to the minimum amount specified in sub-section (4) of this Act :

Provided further that where a direction has been given by a Board of Referees under sub-section (3) of section 6 or by the Central Board of Revenue under sub-section (1) of section 26 of this Act, that the standard profits shall be computed as if the profits during the standard period were such greater amount as it thinks just, such amount shall be increased by the amount of the interest on or other consideration for the borrowed money during the standard period.

(2) In this rule and in rule 2A of the Second Schedule 'borrowed money' means borrowed money which, apart from the provisions of the said rule 2A would have been deductible in computing capital.]

6. No deduction shall be made on account of liability to pay, or payment of income-tax, or excess profits tax.

7 Rule 5A was inserted by s. 8 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941). This rule should be read with rule 2A of Sch. II. These rules recognize not only what has been claimed to be an invidious distinction made by the existing rule 5 of the first Schedule to the Act between money borrowed from a person carrying on a *bona fide* banking business and other borrowed money, but also the fact that the borrower bears some risk in respect of *any* borrowed money. The rules, therefore, as from the 1st April 1941, treat all borrowed money as capital both as regards the standard period, if any, and as regards the chargeable accounting period, so that the comparison of average capital required by the Act is to include the borrowed money as well as the proprietor's capital so far as this capital is employed in the business, and they provide for the corresponding inclusion in profits of the interest, etc., payable in respect of the borrowed money. The effect of this clause may be illustrated by an example :

				Standard	Chargeable
				period.	accounting
					period.
				Rs.	Rs.
Average capital	....	...	...	5,00,000	6,00,000
Average borrowed money	...	...	...	1,00,000	2,00,000

7. <sup>8</sup>[(1) In the case of a business carried on, in any accounting period which constitutes or includes a chargeable accounting period, by a company the directors whereof throughout that accounting period a controlling interest therein—

(a) in computing the profits for that accounting period ; and

(b) if the standard profits of the business are computed by reference to the profits of a standard period, also in computing, in relation to any such chargeable accounting period, the profits for the standard period,

no deduction shall be made in respect of directors' remuneration.]

(2) <sup>9</sup>[In sub-rule (1) of this rule] the expression “ directors' remuneration” does not include—

(a) the remuneration of any director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity and is not the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than five per cent. of the ordinary share capital of the company, or

(contd.)—

Profits for Excess Profits Tax purposes on old basis	...	...	...	...	50,000	1,00,000
Interest payable	...	...	...	...	5,000	10,000
Liability on old basis—						
Profits of chargeable accounting period	...	...	...	...	50,000	1,00,000
Standard Profits	...	...	...	...	50,000	
Add 10 per cent on increased capital (Rs. 1,00,000)	...	...	...	...	100,000	
						60,000
Excess Profits	...	...	...	...		40,000
Liability on new basis—						
Profits of chargeable accounting period	...	...	...	...	1,00,000	
Add interest payable	...	...	...	...	10,000	
						1,10,000
Profits of standard period	...	...	...	...	50,000	
Add interest payable	...	...	...	...	5,000	
						55,000
Add 10 per cent. on increased capital (Rs. 2,00 000) including borrowed money	...	...	...	...	20,000	
						75,000
Excess profits	...	...	...	...		35,000

Provision is made to secure that in the case of a business to which, for any chargeable accounting period, the minimum standard of Rs. 36,000 a year applies, or, in respect of which an award of a submitted standard of profits has been given under section 6 (3) by a Board of Referees or under section 26 (I) by the General Board of Revenue, the new provisions shall not operate to deprive the assessee of the benefit that enures to him by reason of the minimum standard or of such award.

8 Sub-rule (1) was substituted for the old sub-rule by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

9 These words, brackets and figures were inserted by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).



- (b) the remuneration of any managing agent where such remuneration is included in the profits of the managing agent's business for the purposes of excess profits tax.

If, in the case of a business carried on by a company in any accounting period which constitutes or includes a chargeable accounting period, the directors of the company—

- (a) have during any part of that accounting period, or  
(b) had during the whole or any part of any previous accounting period which includes the whole or any part of any chargeable accounting period or the whole or any part of the standard period (if any),

a controlling interest therein, and the case is not one to which sub-rule (1) of this rule applies, then, except in so far as the Central Board of Revenue otherwise directs, no deduction shall be made in respect of directors' remuneration, either in computing the profits for the first-mentioned accounting period or in computing in relation to any chargeable accounting period wholly or partly included in that accounting period, the profits of the standard period (if any).]

8. In the case of a business carried on by a company, if the standard profits of the company are computed by reference to the profits during a standard period, no deduction shall be allowed in respect of remuneration paid to a managing agent in excess of the amount which would have been payable to that managing agent if the agreement in force in the standard period had been in force in the chargeable accounting period, except where such remuneration is subjected to excess profits tax in the hands of the managing agent.

9. Where the performance of a contract extends beyond the accounting period, there shall (unless the Excess Profits Tax Officer owing to any special circumstances, otherwise directs) be attributed to the accounting period such proportion of the entire profits or, loss which has resulted, or which it is estimated will result, from the complete performance of the contract as is properly attributable to the accounting period, having regard to the extent to which the contract was performed therein :

Provided that when any such contract has been completed and the profits have been finally ascertained, if the aggregate of the amounts attributed to previous accounting periods exceeds the profit, as finally ascertained, from the complete performance of the contract, an adjustment shall be made to reduce the amounts so attributed to the various chargeable accounting periods to the amount of the profits as finally ascertained.

10. In respect of any building erected on or after the 1st day of September, 1939, which during any chargeable accounting period has ceased to be required for the purposes of the business or has been sold, any amount by which the value of the building at the date when it ceased to be required for the purposes of the business

10 Sub-rule (8) was added by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

or the price obtained for the building, as the case may be, falls short of the written down value of the building shall be allowed as a deduction in arriving at the profits of that chargeable accounting period.

<sup>11</sup>[11. Where in respect of any accounting period a deduction would, apart from the provisions of this rule, be allowable in computing profits, and, in the opinion of the Excess Profits Tax Officer, the deduction does not represent a sum reasonably and properly attributable to that accounting period, only such part of the deduction shall be allowable as a deduction for that period as appears to the Excess Profits Tax Officer to be reasonably and properly attributable to that period, and any balance of the deduction shall be treated as attributable to such other accounting period or periods (whether or not they include, or fall wholly or partly within, the standard period, if any, or any chargeable accounting period) as the Excess Profits Tax Officer thinks proper.

Any person who is dissatisfied with a determination of the Excess Profits Tax Officer under this rule may, at any time before the expiry of forty-five days from the date on which such determination is communicated to him, appeal to the Board of Referees through the Excess Profits Tax Officer.]

<sup>12</sup>[12. (1) In computing the profits of any chargeable accounting period no deduction shall be allowed in respect of expenses in excess of the amount which the Excess Profits Tax Officer considers reasonable and necessary having regard to the requirements of the business and, in the case of directors' fees or other payments for services to the actual services rendered by the person concerned :

Provided that no disallowance under this rule shall be made by the Excess Profits Tax Officer unless he has obtained the prior authority of the Commissioner of Excess Profits Tax.

(2) Any person who is dissatisfied with the decision of the Excess Profits Tax Officer under this rule may appeal in the prescribed time and manner to the Appellate Tribunal.]

## SCHEDULE II.

[See section 2 (3).]

### *Rules for computing the average amount of capital.*

1. (1) Subject to the provisions of this Schedule, the average amount of the capital employed in a business (so far as it does not consist of money) shall be taken to be—

(a) so far as it consists of assets acquired by purchase on or after the commencement of the business, the price at

11 Rule 11 was added by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

12 Rule 12 was inserted by s. 8 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941). It is designed to prevent the dissipation of excess profits by expenditure that has no relation to the requirements of the business, the major part of the cost of which might be met out of reduced taxation. In order, however that this power of disallowance should not be exercised without the fullest consideration, it is provided that the authority of the Commissioner of Excess Profits Tax is to be a condition precedent to its exercise, and further the assessee is given the right of appeal to the Appellate Tribunal in the case of any disallowance under this provision.

which those assets were acquired, subject to the deduction thereafter specified;

- (b) so far as it consists of assets being debts due to the person carrying on the business, the nominal amount of those debts, subject to the said deductions;
- (c) so far as it consists of any better assets which have been acquired otherwise than by purchase as aforesaid, the value of the assets when they became assets of the business, subject to the said deductions.

(2) The price or value of any assets other than a debt shall be subject to such deductions for depreciation as are necessary to reduce the asset to its written down value <sup>1</sup>[and to such other deductions in the respect of reduced values of assets as are allowable in computing profits for the purposes of income-tax] and, in the case of a debt, the nominal amount of the debt shall be subject to any deduction which has been allowed in respect thereof for income-tax purposes.

(3) Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired.

2. (1) Any borrowed money and debts shall be deducted, and in particular any debt for income-tax or super-tax or for excess profits tax in respect of the business shall be deducted :

Provided that any such debt for income-tax or super-tax or excess profits tax shall, for the purposes of this Schedule, be deemed to have become due--

- (a) in the case of income-tax and super-tax on the last day of the period of time within which the tax is payable under section 45 of the Indian Income-tax Act, 1922;
- (b) in the case of excess profits tax on the first day after the end of the chargeable accounting period in respect of which the tax is assessable notwithstanding that the excess profits tax may not have been assessed until after that date.

<sup>2</sup>[The debts to be deducted under this sub-rule shall include any such sums in respect of accruing liabilities as are allowable as a deduction in computing profits for the purposes of excess profits tax or would have been so allowable if the period for which the amount of capital is being computed had been a chargeable accounting period; and the said sums shall be deducted notwithstanding that they have not become payable.]

(2) Where any debt for the excess profits tax assessable in respect of any period is to be deducted under this rule, the amount thereof shall not be reduced as the result of any relief to be given in respect of a deficiency of profits occurring in any subsequent period, and the amount of any such relief shall be treated as having become

1. These words were inserted by s. 10 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

2. These words were inserted by s. 10 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

an asset of the business on the first day after the end of the chargeable accounting period in which the deficiency occurred.

<sup>3</sup>[2A. In computing for any chargeable accounting period ending after the end of March 1941, and in relation thereto for the standard period, if any, the average capital of a business other than a business to which sub-rule (2) of rule 4 of the First Schedule applies, or the average capital of a part of a business other than a part of a business to which sub-rule (2A) of the said rule applies, no deduction shall be made in respect of borrowed money :

Provided that, as respects any such chargeable accounting period which commences before the said end of March, the application of this rule shall be subject to the provisions of section 7A of this Act :

Provided further that the same deduction shall be made in respect of accruing liabilities for interest as would have been made if this rule had not been enacted.]

3. Any investments the income from which is by virtue of the provisions of the first Schedule not to be taken into account in computing the profits of the business, and any moneys not required for the purposes of the business, shall be left out of account, but where any investments in the beneficial ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under the last preceding rule in respect of borrowed money shall be computed as if the principal of the borrowed money were reduced by the value of those investments :

Provided that where the person carrying on the business is not a company, no reduction shall be deemed to be made in the principal of any borrowed money in respect of any investments unless the investments are mortgaged, charged or pledged as security for the repayment of that money and the interest thereon.

4. Notwithstanding anything contained in rule 3, in the case of the business of shipping, to which this Act applies, the sale proceeds of any tonnage sold or the amount of compensation in respect of loss of ships or the amount of accumulation of reserves, whether invested or not, shall be taken into account in computing the average amount of capital employed in such business :

Provided that any income received from investment of such funds shall be included in computing profits for purposes of the excess profits tax.

5. For the purpose of ascertaining the average amount of capital employed in a business during any period, the profits or losses made in that period shall, except so far as the contrary is shown be deemed—

(a) to have accrued at an even rate throughout the period; and

(b) to have resulted, as they accrued, in a corresponding increase or decrease, as the case may be, in the capital employed in the business.

<sup>3</sup> This rule was inserted by s. 9 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941). See foot-note under Rule 5A of Sch. I *supra*).

6. Where, in accordance with the <sup>4</sup>[second or third proviso] to section 5 of this Act, this Act is applicable to part only of a business, the capital employed in that part shall be computed separately from any other capital of the person carrying on the business, and all references to capital employed in a business shall be construed as references to capital employed in that part of the business only.

<sup>5</sup>[7. (1) If—

(a) the Central Board of Revenue is satisfied, as respects any assets of any business the standard profits of which are computed by reference to the profits of a standard period, that during that period or any part thereof those assets were inherently unproductive, and

(b) an application that this rule shall have effect is made through the Excess Profits Tax Officer to the Central Board of Revenue by the person carrying on the business,

then, in computing the average amount of the capital employed in the business in the standard period and in all chargeable accounting periods, these assets, and any other assets of the business, shall be treated as not having been assets thereof during any part of the period during which, in the opinion of the Central Board of Revenue, they were inherently unproductive :

Provided that in the case of a business the standard profits of which depend directly or indirectly upon a direction of the Board of Referees under sub-section (3) of section 6, or of the Central Board of Revenue under sub-section (1) of section 26 of this Act the provisions of this rule shall have effect to such extent only as the Central Board of Revenue thinks proper :

Provided further that an application to the Central Board of Revenue under this rule shall be presented to the Excess Profits Tax Officer before the expiry of the period specified in the notice issued under sub-section (1) of section 13 of this Act or of the extended period allowed by the Excess Profit Tax Officer under the proviso to that sub-section.

(2) Where sub-rule (1) of this rule has effect on the application of the person carrying on any business, any computation, of capital of the business made before the making of the application, and any assessment affected by that computation shall be revised accordingly.]

### SCHEDULE III.

[See section 9 (7).]

*Rules for determining the amount of capital held by a company through other companies.*

1. Where, in the case of a number of companies, the first directly owns ordinary share capital of the second and the second

<sup>4</sup> These words were substituted for the words "second proviso" by s. 9 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

<sup>5</sup> This rule was added by s. 10 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

directly owns ordinary share capital of the third, then, for the purpose of this Schedule, the first shall be deemed to own ordinary share capital of the third through the second and, if the third directly owns ordinary share capital of a fourth, the first shall be deemed to own ordinary share capital of the fourth through the second and third and the second shall be deemed to own ordinary share capital of the fourth through the third, and so on.

2. In this Schedule—

- (a) any number of companies of which the first directly owns ordinary share capital of the next and the next directly owns ordinary share capital of the next but one and so on, and, if they are more than three, and three or more of them, are referred to as “a series”;
- (b) in any series—
  - (i) that company which owns ordinary share capital of another through the remainder is referred to as “the other owner”;
  - (ii) that other company the ordinary share capital of which is so owned is referred to as “the last owned company”;
  - (iii) the remainder, if one only, is referred to as an “intermediary” or, if more than one, is referred to as a “chain of intermediaries”;
- (c) a company in a series which directly owns ordinary share capital of another company in the series is referred to as an “owner” (s)
- (d) any two companies in a series of which one owns ordinary share capital of the other directly, and not through one or more of the other companies in the series, are referred to as being directly related to one another.

3. Where every owner in a series owns the whole of the ordinary share capital of the company to which it is directly related, the first owner shall be deemed to own through the intermediary or chain of intermediaries the whole of the ordinary share capital of the last owned company.

4. Where one of the owners in a series owns a fraction of the ordinary share capital of the company to which it is directly related, and every other owner in the series owns the whole of the ordinary share capital of the company to which it is directly related, the first owner shall be deemed to own that fraction of the ordinary share capital of the last owned company through the intermediary or chain of intermediaries.

5. Where—

- (a) each of two or more of the owners in a series owns a fraction, and every other owner in the series owns the whole, of the ordinary share capital of the company to which it is directly related ; or
- (b) every owner in a series owns a fraction of the ordinary share capital of the company to which it is directly related ;



the first owner shall be deemed to own through the intermediary or chain of intermediaries such fraction of the ordinary share capital of the last owned company as results from the multiplication of those fractions.

6. Where the first owner in any series owns a fraction of the ordinary share capital of the last owned company in that series through the intermediary or chain of intermediaries in that series, and also owns another fraction or other fractions of the ordinary share capital of the last owned company, either—

(a) directly ; or

(b) through any intermediary or intermediaries which is not a member or are not members of that series ; or

(c) through a chain or chains of intermediaries of which one or some or all are not members of that series ; or

(d) in a case where the series consists of more than three companies, through an intermediary or intermediaries which is a member or are members of the series, or through a chain or chains of intermediaries consisting of some but not all of the companies of which the chain of intermediaries in the series consists ;

then, for the purpose of ascertaining the amount of the ordinary share capital of the last owned company owned by the first owner, all those fractions shall be aggregated and the first owner shall be deemed to own the sum of those fractions.

# THE INDIAN FINANCE ACT, 1941.

(Act No. VII of 1941)

\* \* \* \* \*

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to vary the rate of the excise duty on matches leviable under the Matches (Excise Duty) Act, 1934 to vary the rate of the excise duty on mechanical lighters leviable under the Mechanical Lighters (Excise Duty) Act, 1934, to vary the rate of the duty on artificial silk yarn and thread leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which the excess profits tax shall be charged ;

It is hereby enacted as follows :

Short title and extent. 1. (1) This Act may be called the Indian Finance Act, 1941.

(2) It extends to the whole of British India.

\* \* \* \* \*

Income-tax and Super-tax. 7. (1) Subject to the provisions of sub-section (2) and (3)—

(a) income-tax for the year beginning on the 1st day of April, 1941, shall be charged at the rates specified in Part I of Schedule II to the Indian Finance Act, 1939 increased in each case by a surcharge for the purposes of the Central Government amounting to one-third of each such rate ;

(b) rates of super-tax for the year beginning on the last day of April, 1941, shall, for the purposes of section 55 of, the Indian Income-tax Act, 1922, be the rates specified in part II of Schedule II to the Indian Finance Act, 1939, increased—

(i) in the case of the rate applicable to a company, by a surcharge amounting to one-third of that rate, and

(ii) in the case of every other rate, by a surcharge for the purposes of the Central Government amounting to one-third of each such rate :

Provided that in the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies, the rates of super-tax for the year beginning on the 1st day of April

1941, shall be the rates of super-tax specified in the proviso to clause (b) of sub-section (1) of section 7 of the Indian Finance Act, 1940, increased in each case by a surcharge for the purpose of the Central Government amounting to the one-third or each such rate.

(2) In making any assessment for the year ending on the 31st day of march, 1942,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or under the head "Interest on Securities" or any income from dividends in respect of which he is deemed under Section 49B of the Indian Income-tax Act, 1922 to have paid income-tax imposed in British India, the Income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1940, read with sub-section (1) of section 3 of the Indian Finance (No. 2) Act 1940, on his total income the same proportion as the amount of such inclusions bears to his total income ;

(b) where the total income of an assessee not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1940, read with sub-section (1) of section 3 of the Indian Finance (No. 2) Act, 1940, on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) In cases to which section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section, and in accordance with the provisions of sub-section (2) of this section where applicable.

(4) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax, or super-tax as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

8. (1) In clause (a) of sub-section (6) of section 2 of the Continuan- of Excess Profits Tax Act, 1940, for the words and  
and rate of figures "31st day of March, 1941," the words and  
Excess Profits figures "31st day of March, 1942," shall be substi-  
Tax tuted.

(2) The excess profits tax imposed by section 4 of the Excess Profits Tax Act, 1940, shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1941, be an amount equal to sixty-six and two-thirds per cent, of the amount by which the profits of the business during that chargeable accounting period exceed the standard profits.

## THE INDIAN FINANCE (No. 2) Act, 1940.

Whereas it is expedient to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies ;

It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Indian Finance (No. 2) Act, 1940.

(2) It extends to the whole of British India.

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Income-tax and super-tax. 3. (1) Subject to the provisions of this section, the rates of income-tax, and the rates of super-tax other than super-tax payable by a company, imposed by sub-section (1) of section 7 of the Indian Finance Act 1940, shall in respect of the year beginning on the 1st day of April 1940, be increased by surcharge for the purposes of the Central Government amounting to one-twelfth of such rate, and the rate of super tax payable by a company imposed by the said sub-section shall in respect of the same year be increased by one-twelfth.

(2) In making any assessment for the year ending on the 31st day of March, 1941,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or under the head "Interest on Securities", or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922 to have paid income-tax imposed in British India, the income tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates in force before the commencement of this Act on his total income the same proportion as the amount of such inclusions bears to his total income ;

(b) where the total income of an assessee, not being a company includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the

super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates in force before the commencement of this Act on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) For the purposes of the proviso to sub-section (2) of section 18 of the Indian Income-Tax Act, 1922, the amount by which any deduction made under that sub-section by a person responsible for paying any income chargeable under the head "Salaries" falls short of the deduction which could have been made had the rates imposed by this Act then been in force shall be deemed to be a deficiency arising out of a previous deduction or failure to deduct.

(4) Notwithstanding that the Income-tax Officer has assessed the total income of an assessee and has determined the sum payable thereon under section 32 of the Indian Income-tax Act, 1922, he may proceed to determine the further sum payable by such assessee by virtue of sub-section (1) of this section, and such further sum shall for the purposes of the Indian Income-Tax Act, 1922, be deemed to be a sum determined under section 23 of that Act.

### THE INDIAN FINANCE ACT, 1940.

(ACT NO. XVI of 1940.)

Whereas it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the rate of excise duty on sugar other than *khandsari* or palmyra sugar, leviable under the Sugar (Excise Duty) Act, 1934, to vary the rate of the excise duty on motor spirit leviable under the motor Spirit (Duties) Act, 1917, to vary the rate of the customs duty on motor spirit leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax; it is hereby enacted as follows :—

Short title  
and extent.

1. (1) This Act may be called the Indian Finance Act, 1940.

(2) It extends to the whole of British India.

\* \* \* \* \*

Income-tax and  
super-tax.

7. (1) Subject to the provisions of sub-section

(a) income-tax for the year beginning on the 1st day of April, 1940, shall be charged at the rates specified in Part I of Schedule II to the Indian Finance Act, 1939;

(b) rates of super-tax for the year beginning on the 1st day of April, 1940, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the rates specified in Part II of Schedule II to the Indian Finance Act, 1939;

Provided that in the case of an association of persons being a Co-operative Society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies, the rates of super-tax for the year beginning on the 1st day of April, 1940, shall be—

- (1) On the first Rs. 25,000 of total income... *Nil*,  
 (2) On the balance of total income ... One anna in the rupee.

(2) In cases to which section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined in accordance with the provisions of that section with reference to the rates imposed by sub-section (1).

(3) For the purpose of this section and of the rates of tax imposed by sub-section (1), the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

### THE INDIAN FINANCE ACT, 1939.

Whereas it is expedient to fix the duty on salt manufactured in or imported by land into, certain parts of British India, to vary the incidence and rate of excise duty on *khandsari* sugar leviable under the Sugar (Excise Duty) Act, 1934, to vary the duty on raw cotton, leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax ;

It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Indian Finance Act, 1939.

(2) It extends to the whole of British India.

\* \* \* \* \*

Income-tax and super-tax. (6) (1) Subject to the provisions of sub-section

(a) income-tax for the year beginning on the 1st day of April, 1939, shall be charged at the rates specified in Part I of Schedule II, and

(b) rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1912, be those specified in Part II of Schedule II.

(2) In cases to which section 17 of the Indian Income-tax Act, 1912, applies the tax chargeable shall be determined in accordance with the provisions of that section with reference to the rates specified in Schedule II.



(3) For the purpose of this section and of Schedule II, the expression "total income" means total income as determined for the purposes of income-tax or super-tax as the case may be, in accordance with the provisions of the Income-tax Act, 1922.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), where more than half of the total income of any individual or Hindu undivided family consists of income from salaries, interest on securities or dividends in respect of which the individual or Hindu undivided family is deemed, under the provisions of section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, or consists of income falling under more than one of those heads—

(a) income-tax for the year beginning on the 1st day of April, 1939, shall be charged in respect of such total incomes at the rates of income-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, and

(b) in cases in which super-tax has been deducted under the provisions of section 18 of the said Act or would have been so deductible had the Indian Income-tax (Amendment) Act, 1939, come into force on the 1st day of April, 1938, the rates of super-tax for the year beginning on the 1st day of April, 1939 shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the rates of super-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, as the case may be.

(5) In respect of income to which sub-section (4) applies, the provisions of section 17 of the Indian Income-tax Act, 1922, shall apply to the assessment to be made for the year beginning on the 1st of April, 1939, as though the Indian income-tax (Amendment) Act, 1939, had not been passed.

\*

\*

## SCHEDULE II.

[See section 6.]

### PART I.

#### RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 1,500 of total income :	<i>Nil.</i>
2. On the next Rs. 3,500 of total income :	Nine pies in the rupee.
3. On the next Rs. 5,000 of total income :	One anna and three pies in the rupee.
4. On the next Rs. 5,000 of total income :	Two annas in the rupee.
5. On the balance of total income :	Two annas and six pies in the rupee.

Provided that—

- (i) no income-tax shall be payable on a total income which does not exceed Rs. 2,000 ;
- (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 2,000.

B. In the case of every company and local authority, and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.
On the whole of total income	: Two annas and six pies in the rupee.

## PART II.

### RATES OF SUPER-TAX.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this part applies—

	Rate.
1. On the first Rs. 25,000 of total income :	
2. On the next Rs. 10,000 of total income:	One anne in the rupee.
3. On the next Rs. 20,000 of total income:	Two annas in the rupee.
4. On the next Rs. 70,000 of total income:	Three annas in the rupee.
5. On the next Rs. 75,000 of total income:	Four annas in the rupee.
6. On the next Rs. 1,50,000 of total income:	Five annas in the rupee.
7. On the next Rs. 1,50,000 of total income:	Six annas in the rupee.
8. On the balance of total income	: Seven annas in the rupee.

B. In the case of every company and local authority—

	Rate.
On the whole of total income	: One anna in the rupee.

# Income-Tax Practitioner's Manual

## THE INDIAN FINANCE ACT, 1942.

(Received the assent of the Governor General on the 26th March, 1942).

ACT No. XII OF 1942.

*An Act to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to vary the rate of the excise duty on motor spirit leviable under the Motor Spirit (Duties) Act, 1917, to vary the rate of the excise duty on kerosene leviable under Section 5 of the Indian Finance Act, 1922, to vary the rate of the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, to levy customs duties in addition to the duties of customs leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged.*

WHEREAS it is expedient to fix the duty on salt manufactured in or imported by land into, certain parts of British India, to vary the rate of the excise duty on motor spirit leviable under the Motor Spirit (Duties) Act, 1917, to vary the rate of the excise duty on kerosene leviable under section 5 of the Indian Finance Act, 1922, to vary the rate of the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, to levy customs duties in addition to the duties of customs leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, Act, 1898, to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged ;

It is hereby enacted as follows.

Short title and extent. 1. (1) This Act may be called the Indian Finance Act, 1942.

(2) It extends to the whole of British India.

2. The provisions of Section 7 of the Indian Salt Act, 1882, shall, Fixation of salt in so far as they enable the Central Government to duty. impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India, be construed as if, for the year beginning on the 1st day of April, 1942, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

3. In sub-section (1) of Section 3 of the Motor Spirit (Duties) Act, 1917, for the words, "twelve annas" the words "fifteen annas" shall be substituted.

4. In the proviso to Section 5 of the Indian Finance Act, 1922, the words "of two annas and three pies" the words "at which customs duty is for the time being livable under the Indian Tariff Act, 1934, read with any other enactment for the time being in force" shall be substituted.

5. In sub-section (1) of Section 3 of the Silver (Excise Duty) Act, 1930, for the words "three annas" the words "three annas and seven and one-fifth pies" shall be substituted.

6. Where any goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934, or under the said Schedule read with any notification of the Central Government for the time being in force, are assessed to duty, there shall up to the 31st day of March, 1943, be levied and collected as an addition to and in the same manner as the total amount so chargeable, a sum equal to one-fifth of such amount :

Provided that such addition of duty shall not be levied and collected on—

(a) salt comprised in Item No. 25 (1) of the said Schedule ;

(b) motor spirit comprised in Item No. 27 (6) of the said Schedule ;

(c) raw cotton comprised in Item No. 46 (3) of the said Schedule, so long as the additional duty of customs imposed by the Cotton Fund Ordinance, 1942, continues to be leviable ;

(d) machinery comprised in Items Nos. 72, 72 (1), 72 (2) and 72 (3) of the said Schedule ;

(e) the following, when the Customs-Collector is satisfied that they are the produce or manufacture of Burma, namely :

(i) potatoes and onions comprised in Item No. 7 of the said Schedule,

(ii) coffee comprised in Item No. 9 of the said Schedule,

(iii) spices comprised in Item No. 9 (3) of the said Schedule,

(iv) betelnuts comprised in Item No. 9 (5) of the said Schedule,

(v) cutch and gambier comprised in Item No. 13 (2) of the said Schedule,

(vi) sugar excluding confectionery comprised in Item No. 17 of the said Schedule,

(viii) cigars comprised in Item No. 24 (1) of the said Schedule,

(viii) matches comprised in Item No. 34 (4) (a) of the said Schedule.

7. For the year beginning on the 1st day of April, 1942, the Schedule contained in Schedule I to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act.

Income-tax and 8. (1) Subject to the provisions of sub-sections (2)  
supertax. and

(a) income-tax for the year beginning on the 1st day of April, 1942, shall be charged at the rates specified in Part one of Schedule II increased in the cases to which sub-paragraph (b) of paragraph A and paragraph B of that Part apply by a surcharge for the purpose of the Central Government at the rate specified therein in respect of each rate of income-tax, and

(b) rates of super-tax for the year beginning on the 1st day of April, 1942, shall, for the purposes of Section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of Schedule II increased in the cases to which paragraphs A, B and C of that Part apply by a surcharge for the purposes of the Central Government at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March, 1943,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” or under the head “Interest on Securities” or any income from dividends in respect of which he is deemed under Section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1941, on his total income the same proportion as the amount of such inclusions bears to his total income.

(b) where the total income of an assessee, not being a company includes any income chargeable under the head “Salaries” on which super-tax has been or might have been deducted under the provisions of sub-section (2) of Section 18 of the Indian Income-tax Act 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1941 on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) In cases to which Section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section and in accordance with the provisions of sub-section (2) of this section where applicable.

(4) For the purposes of this section and of the rates of tax imposed thereby, the expression “total income” means total income as determined for the purposes of income-tax, or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2) no tax shall be payable in cases to which sub-paragraph (a) of paragraph A of Part I of Schedule II applies where the assessee

deposits with the Central Government in such manner and in accordance with such conditions as the Central Government may by rule prescribe for the purposes of this sub-section an amount representing not less than one rupee for every complete unit of twenty-five rupees by which his total income exceeds seven hundred and fifty rupees :

Provided that where the total income includes any income chargeable under the head "Salaries" or under the head "Interest on Securities" or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, the amount to be deposited by the assessee in order to obtain the exemption conferred by this sub-section shall be an amount bearing to the minimum required to be deposited under the foregoing provisions of this sub-section the same proportion as the amount of his total income diminished by the amount of such inclusions bears to the amount of his total income.

(6) A deposit made in accordance with the provisions of sub-section (5) shall not in any way be capable of being charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the depositor and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920, shall be entitled to or have any claim or any such deposit.

(7) Where the total income of an assessee referred to in subparagraph (b) of paragraph A of part I of Schedule II does not exceed six thousand rupees, an amount representing one rupee for every complete unit of two hundred rupees of his total income as reduced by the deductions, if any, allowed under the second proviso to sub-section (1) of Section 7, Section 15 and sub-section (1) of Section 58F of the Indian Income-tax Act, 1922, shall be funded for the assessee's benefit and shall be paid to him on such date, not more than twelve months after the termination of the present hostilities, as the Central Government may fix :

Provided that nothing in this sub-section shall apply to any part of total income to which clause (a) of sub-section (2) applies.

*Explanation*—In computing the amount to be funded under this sub-section if there is an incomplete unit amounting to one hundred rupees or more it shall be reckoned as a complete unit of two hundred rupees.

9. (1) In sub-clause (a) of clause 6 of section 2 of the Excess Profits Tax Act, 1940, for the words and figures "31st day of March, 1942" the words and figures "31st day of March, 1943" shall be substituted.

Continuance of  
and rate of Excess  
Profits Tax.

(2) The excess profits tax imposed by Section 4 of the Excess Profits Tax Act, 1940, shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1942, be an amount equal to sixty-six and two-thirds per cent of the amount by which the profits of the business during that chargeable accounting period exceed the standard profits.

10. (1) If before the 1st day of July, 1942, or within thirty days



Funding of one-tenth of excess Profits Tax. of the date on which any excess profits tax, charged under the provisions of the Excess Profits Tax Act, 1940, at the rate of sixty-six and two-thirds per cent. becomes payable, whichever of these dates is later, a further sum not exceeding one-fifth of the amount of the said excess profits tax is deposited with the Central Government the Central Government shall repay, at such date and subject to such conditions as it may hereafter determine, so much of the said excess profits tax as shall be equal to one-tenth of the amount thereof or to one-half of such further sum deposited, whichever is the less ;

Provided that, if the said excess profits tax is thereafter reduced, whether by relief given in respect of a deficiency of profits, or by relief given in respect of double excess profits taxation or otherwise, and whether by refund or otherwise, the portion of the tax to be repaid under this section shall be correspondingly reduced :

Provided further that if the said excess profits tax is so reduced, the maximum sum that may be deposited with the Central Government under this section shall also be correspondingly reduced :

Provided further that the provisions of this section shall apply in respect of excess profits tax to which the section applies which became payable before the commencement of this Act if the further sum referred to herein is deposited before the 1st day of July, 1942 :

Provided further that in relation to excess profits tax payable under the Excess Profits Tax Act, 1940, in respect of any profits which are also liable to assessment to excess profits tax under the law in force in the United Kingdom it shall be unnecessary to deposit the further sum referred to in this section, and the amount repayable by the Central Government under this section shall, subject to the first proviso, be one-tenth of the amount of the excess profits tax payable at the rate of sixty-six and two-thirds per cent. under the Excess Profits Tax Act, 1940.

(2) Any sum deposited with the Central Government under sub-section (1) shall carry simple interest at the rate of two per cent. per annum and shall be repaid within twelve months of the date of termination of the present hostilities.

(3) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this section and for prescribing the manner and conditions referred to in sub-section (5) of Section 8.

## SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

(See Section 7.)

### "THE FIRST SCHEDULE

#### INLAND POSTAGE RATES.

(See Section 7.)

*Letters.*

For a weight not exceeding one tola	. One and a half annas.
For every tola, or fraction thereof, exceeding one tola.	. Half an anna.

*Postcards.*

Single	. Nine pies.
Reply	. One and a half annas.

*Book, Pattern and Sample Packets.*

For the first five tolas or fraction thereof	. Nine pies.
For every additional two and a half tolas, or fraction thereof, in excess of five tolas	. Three pies.

*Registered newspapers.*

For a weight not exceeding ten tolas	. Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	. Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	. Half an anna.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
For a weight not exceeding ten tolas	. Half an anna.
For every additional five tolas, or fraction thereof, in excess of ten tolas	. Quarter of an anna.
Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognized agent at the post office	

*Parcels.*

For a weight not exceeding forty tolas	. Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annans.

**SHDEULE II.**

(See Section 8 )

**PART I.**

*Rates of Income-tax*

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies :—

(a) Where the total income does not exceed Rs. 2,000—  
Rate.

1. On the first Rs. 750 of total income . Nil,
2. On the next Rs. 1,250 of total income . Six pies in the rupee  
Provided that no tax shall be payable on a total income which does not exceed Rs. 1,500

(b) Where the total income exceeds Rs. 2,000—

	Rate	Surcharge.
1. On the first Rs. 1,500 of total income.	<i>Nil</i>	<i>Nil</i>
2. On the next Rs. 3,500 of total income	Nine pies in the rupee	Six pies in the rupee.
3. On the next Rs. 5,000 of total income	One anna and three pies in the rupee	Nine pies in the rupee.
4. On the next Rs. 5,000 of total income	Two annas in the rupee	One anna and two pies in the rupee.
5. On the balance of total income	Two annas and six pies in the rupee	One anna and three pies in the rupee.

B—In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.	Surcharge
On the whole of total income	Two annas and six pies in the rupee.	One anna and three pies in the rupee.

## PART II.

### *Rates of super-tax.*

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraphs B and C of this part apply—

	Rate	Surcharge.
1. On the first Rs. 25,000 of total income	<i>Nil</i>	<i>Nil.</i>
2. On the next Rs. 10,000 of total income.	One anna in the rupee.	Six pies in the rupee.
3. On the next Rs. 20,000 of total income.	Two annas in the rupee.	One anna in the rupee.
4. On the next Rs. 70,000 of total income.	Three annas in the rupee.	One anna and six pies in the rupee.
5. On the next Rs. 75,000 of total income.	Four annas in the rupee.	Two annas in the rupee.
6. On the next Rs. 1,50,000 of total income	Five annas in the rupee.	Two annas and six pies in the rupee.
7. On the next Rs. 1,50,000 of total income	Six annas in the rupee.	Three annas in rupee
8. On the balance of total income	Seven annas in the rupee.	Three annas and six pies in the rupee.

—In the case of every local authority—

	Rate.	Surcharge.
On the whole of total income	One anna in the rupee.	Six pies in the rupee.

C—In the case of an association of persons being a co operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies—

	Rate.	Surcharge.
1. On the first Rs. 25,000 of total income.	<i>Nil.</i>	<i>Nil.</i>
2. On the balance of total income	One anna in the rupee.	Six pies in the rupee.

D.—In the case of every company—

	Rate.
On the whole of total income	One anna and six pies in the rupee.

## **PART II—RULES**

### **The**

### **Indian Income-Tax Rules, 1922<sup>1</sup>.**

**(As amended up to 1st June 1945)**

In exercise of the powers conferred by Section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Board of Inland Revenue has made the following rules, namely :—

1. These rules may be called the **INDIAN INCOME-TAX RULES 1922**.

\*2. Any firm constituted under an Instrument of Partnership specifying the individual shares of the partners may, under the provisions of Section 26-A of the Indian Income-tax Act, 1922, (hereinafter in these rules referred to as the Act), register with the Income-tax Officer, the particulars contained in the said Instrument on application made in this behalf.

Such application shall be signed by all the partners personally† and shall be made—

- (a) before the income of the firm is assessed for any year under Section 23 of the Act, or
- (b) if no part of the income of the firm has been assessed for any year under Section 23 of the Act, before the income of the firm is assessed under Section 34 of the Act, or
- (c) with the permission of the Appellate Assistant Commissioner hearing an appeal under Section 30 of the Act, before the assessment is confirmed, reduced enhanced or annulled, or
- (d) if the Appellate Assistant Commissioner sets aside the assessment and directs the Income-tax Officer to make a fresh assessment, before such fresh assessment is made, or
- <sup>2</sup>[(e) before or after the dissolution of the firm in respect of the assessment or assessments to be made on its income up to the date of dissolution :

Provided that where an application is made under clause (e) after dissolution of the firm, it shall be signed by all persons who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased.]

<sup>1</sup> These Rules have been notified to apply to salaries received in the Administered Areas of Hyderabad and Central India and in the Cantonment of Baroda.

\*Rules 2 to 6B were amended by Notification No. 32 of 1939.

†Word “personally” inserted by Notification No. 78, dated 7-10-1939.

<sup>2</sup> Inserted by Notification No. 24 of 1941.

3. The application referred to in Rule 2 shall be made and verified in the form annexed to this rule and shall be accompanied by the original Instrument of partnership under which the firm is constituted together with a copy thereof : provided that if the Income-tax Officer is satisfied that for some sufficient reason the original Instrument cannot conveniently be produced, he may accept a copy of it certified in writing by all the partners‡ [or where the application is made after dissolution of the firm, by all the persons referred to in the proviso to the said Rule,] to be a correct copy, and in such a case the application shall be accompanied by a duplicate copy.

## FORM I.

*Form of application for registration of a firm under Section 26-A of the Indian Income-tax Act, 1922.*

To

The Income-tax Officer,

Dated 19

Income-tax year 19 /19

1. We beg to apply for the registration of our firm under Section 26-A of the Indian Income-tax Act, 1922, for the assessment for the income-tax year 19 /19.

2. The original/a certified copy of the Instrument of Partnership under which the firm is constituted specifying the individual shares of the partners, together with a copy a duplicate copy is enclosed. The prescribed particulars are given in the Schedule below.

3. We do hereby certify that the profits (or loss if any) of the ‡previous year were divided or credited period up to the date of dissolution were/will be as shown in section B of the Schedule and that the information given above and in the attached Schedule is correct.

(Signatures)

(Address).

## SCHEDULE)

NOTE.—This application must be signed personally\* by all the partners in the firm as constituted at the date on which the application is made, ‡[or where the application is made after dissolution of the firm, by all persons who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased.]

‡Inserted by Notification No. 24, dated 18th October 1941.

\* Word "personally" inserted by Notification No. 78 of 1939.





5. The certificate of registration granted under Rule 4 shall have effect only for the assessment to be made for the year mentioned therein.

6. Any firm to whom a certificate of registration has been granted under Rule 4 may apply to the Income-tax Officer to have the certificate of registration renewed for a subsequent year. Such application shall be signed <sup>1</sup>[personally] by all the partners of the firm <sup>2</sup>[or where the application is made after dissolution of the firm, by all persons who were partners in the firm immediately before dissolution and by the legal representatives of any such person who is deceased,]; and accompanied by a certificate in the form set out below. The application shall be made within the time and subject to the conditions, if any, which are specified in clause (a), clause (b), clause (c), (clause (d) \*[or clause (e)] as the case may be, of Rule 2.

*Form of application for the Renewal of Registration of a firm under Section 26-A of the Indian Income-tax Act, 1922.*

To

The Income-tax Officer,

Dated.....

Assessment for the Income-tax year 19 /19 .

1. We beg to apply for the renewal of the registration of our firm under Section 26-A of the Indian Income-tax Act, 1922, for the assessment for the Income-tax year 19 /19.

2. † The instrument of partnership was registered by the Income-tax Officer for..... in the province of.....on the..... of.....19 , and we hereby certify that the constitution of the firm and the individual shares of the partners as specified in the instrument of partnership so registered on.....remain unaltered.

3. We do hereby further certify that the profits (or loss if any) of the previous year were divided or credited as shown below :—

Particulars of the apportionment of the income, profits or gains (or loss) of the business, profession or vocation in the previous year or the period upto the date of dissolution between the partners who were entitled to share in such income, profits or gains (or losses).

\*Inserted by Notification No 24 of 1941.  
Para. 2 substituted by Notification No. 86 of

Name of Partner	Address	Date of admission to partnership	(i) Interest on Capital or loans (if any)	(i) Salary or commission from firm	(ii) Share in the balance of profits or loss (annas and pies in the rupee)	Remarks.
1	2	3	4	5	6	7

(Signatures)

(Address).

Notes (i) and (ii) are the same as those printed at page 151 *supra*.

6A. On receipt of an application under Rule 6 the Income-tax Officer may, if he is satisfied that the application is in order and that there is or was a firm in existence constituted as shown in the instrument of partnership grant to the assessee a certificate signed and dated by him in the following form :—

“ The registration of the firm of \_\_\_\_\_ granted on \_\_\_\_\_ is renewed by me and will remain effective for the assessment for the year ending on the 31st day of March 19 \_\_\_\_ ”.

If the Income-tax Officer is not so satisfied, he shall pass an order in writing refusing to renew the registration of the firm.

6B. In the event of the Income-tax Officer being satisfied that the certificate granted under Rule 4 or under Rule 6A has been obtained without there being a genuine firm in existence he may cancel the certificate so granted.

7. Under Section 9 (1) (vi) of the Act, the sum to be allowed in respect of collection charges shall not exceed 6 per cent. of the annual value of the property.

\*8. An allowance under section 10 (2) (vi) of the Act in respect of depreciation of buildings, machinery, plant or furniture shall

1 Word “ personally ” inserted by Notification No. 78 of 1939.

2 *Ibid*.

\*As amended by Notification No. 10, dated 25—5—1940.

†Letters N.E.S.A. are a contraction of the expression “No. extra-shift allowance”.

be made in accordance with the following statement:

Class of asset	Rate Percentage on the written down value.	Remarks.
<b>I. Buildings—</b>		
(1) First class substantial buildings of selected materials ...	2.5	Double these rates will be allowed for factory buildings excluding offices, godowns, officer's and employees' quarters.
(2) Second class buildings of less substantial construction ...	5	
(3) Third class buildings of construction inferior to that of second class buildings but not including purely temporary erections ...	7.5	
(4) Purely temporary erections such as wooden structures ...	...	No rate is prescribed; renewals will be allowed as revenue expenditure.
<b>II. Furniture and Fittings—</b>		
(1) General ...	6	
(2) Rate for furniture and fitting used in hotels and boarding houses ...	9	
<b>III. Machinery and Plant—</b>		
(1) General rate ...	7	An extra allowance up to a maximum of 50 per cent of the normal allowance

will be allowed by the Income tax Officer where a concern claims such allowance on account of double or multiple shift working and satisfies the Income-tax Officer that the concern has actually worked double or multiple shifts. This extra allowance will be proportionate to the number of days during which double or multiple shifts are worked. For the purpose of granting this extra allowance the normal number of working days throughout the year will be taken as 300 and if for example a concern has worked double or multiple shifts for 100 days the extra allowance will be  $\frac{1}{3}$  of 50 per cent. of the normal allowance for the whole year. This applies to all concerns whether the general rate or any special rate applies to them but does not apply to an item of machinery or plant specifically excepted by the letters "N.E.S.A.",† being shown against it.

- (2) Special rates to be applied to the whole of the machinery and plant used in the following concerns

The special rates for electrical machinery specified hereinafter may be adopted, at the option of the assessee, for electrical machinery, air conditioning machinery, locomotives, rolling stock, tramways, and railways, weighing machines, calculating machines, type writers, Neo post Franking machines, calculating machines, other office machinery, refrigeration plant, containers etc., and motor vehicles in these concerns.

Class of asset	Rate percent- age on the written down value	Remarks
<b>A.—(I) Flour Mills*</b> (II) Rice Mills (III) Bone Mills (iv) Sugar Works* (v) Distilleries (vi) Ice Factories (vii) Aerating Gas Factories (viii) Match Factories (ix) Tea Factories (x) Shoe and other leather goods factories (xi) Starch Factories (xii) Coffee manufacturing concerns	9	*Replace- ments of Rollers will be allowed as revenue expenditure
<b>B.—(i) Paper Mills</b> (ii) Strawboard Mills (iii) Ship building and Engineering works (iv) Iron and Brass foundries (v) Aluminium Factories (vi) Electrical Engineering works (vii) Motor car repairing works (viii) Internal combustion Engines repairing works (ix) Galvanizing works (x) Patent stone works (xi) Oil extraction factories (xii) Chemical works (xiii) Soap and candle works (xiv) Lime works (xv) Saw mills (xvi) Tin and can making works (xvii) Dyeing and bleaching works (xviii) Cement works using rotary kilns (xix) Rod Mills (xx) Hydraulic Presses (xxi) Brick manufacture (xxii) Tile making industry (xxiii) The manufacture of vegetable ghee (xxiv) The manufacture of optical instruments (xxv) Coke manufacture (xxvi) The manufacture of concrete pipes (xxvii) Glass manufacture and the manufacture of vacuum tubes and vacuum bulbs (xxviii) Telephone operating concerns (xxix) Wire and nail making Mills (xxx) Iron and steel Industry (Blast furnace plant, steel-making plant, steel rolling plant, forges, generators, boilers and sheet mills) (xxxi) Tanneries (xxxii) Battery manufacture (xxxiii) The manufacture of Healds and Reeds (knitting, Reed-making, varnishing, doubling, winding and polishing machines) (xxxiv) The manufacture of confectionery including biscuits and peppermints		
<b>C.—(1) Rubber goods factories—</b> (a) General machinery and plant (b) Moulds (N.E.S.A.)	... 12 ... 40	

Class of asset.	Rate. Percent- age on the written down value.	Remarks.
D.—(i) Silk manufacturing—weaving machinery worked by electric motors including winding machines, twisting frames, doubling machines, pirn winding machines, warping machines, looms, stentering machines and hydroextractors ...	12	
(3) Special rates to be applied to other machinery and plant—		
A.—Ropeway structures (N. E. S. A.)—		
(i) Trestle and Station steel work ...	6	
(ii) Driving and tension gearing ...	10	
(iii) Carriers ...	12	
(iv) Ropeway ropes and trestle sheaves and connected parts ...	30	
B.—Salt works—		
(i) Machinery, plant, locomotives, wagons and rolling stock ...	15	
(ii) Barges and floating plant (N. E. S. A.) ..	10	
(iii) General plant and machinery used in Engineering shops ...	10	
(iv) Reservoirs, condensers, salt pans, delivery channels and piers, if constructed of masonry, concrete cement, asphalt or similar materials (N. E. S. A.) ...	6	
(Note).—Repairs to similar works made of earth will be allowed as revenue expenditure.		
(v) Piers, quays and jetties constructed entirely or mainly of steel (N.E.S. A.)...	7.5	
(vi) Piers, quays, and jetties constructed entirely or mainly of wood (N. E. S. A.).	12	
(vii) Pipe lines for conveying brine if constructed of masonry, concrete cement, asphalt or similar materials (N.E.S.A.).	12	
C.—Electrical machinery—		
(i) Batteries ...	20	
(ii) Other electrical machinery including electrical generators and motors (other than tramway motors) ...	10	
(iii) Switchgear and instruments, transformers and other stationary plant and wiring and fittings of electric light and fan installations (N.E.S.A.) ...	10	
(iv) Under-ground cables and wires (N.E.S. A.	7.5	
(v) Over-head cables and wires (N.E.S.A.).	5	
(vi) X-Ray and Electro-therapeutic apparatus and accessories thereto (N. E. S. A.) ...	20	
D.—Machinery used in the production and exhibition of cinematograph films—(N. E. S. A.).		
(i) Recording equipment, reproducing equipment, developing machines, printing machines, editing machines, synchronisers and studio lights.* ...	20	* Renewals of Bulbs of Studio lights will be allowed as revenue expenditure.
(ii) Projecting equipment of film exhibiting concerns ...	20	



Class of asset.	Rate. Percent- age on the written down value.	Remarks.
<b>E.—Electric supply undertakings—</b>		
(i) Electric plant, machinery, boilers ...	10	
(ii) Hydro-electric concerns [hydraulic works, pipe lines and sluices (N. E. S. A.) ...	2·5	
<b>F.—Electric tramways—</b>		
(i) Permanent way (N. E. S. A.)—		
(a) Not exceeding 50,000 car miles per mile of track per annum ...	9	
(b) Exceeding 50,000 and not exceeding 75,000 car miles per mile of track per annum ...	10	
(c) Exceeding 75,000 and not exceeding 125,000 car miles per mile of track per annum ...	12	
(d) Exceeding 125,000 car miles per mile of track per annum ...	15	
(ii) Cars—car trucks, car bodies, electrical equipment and motors (N. E. S. A.) ...	10	
(iii) General plant, machinery and tools ...	9	
<b>G.—Tramways run by internal combustion engines (N. E. S. A.)—</b>		
(i) Permanent way ...		The same rates as have been prescrib- ed for the perman- ent way of electric tram- ways.
(ii) Tramcars including engines and gears		
<b>H.—Mineral oil concerns (N. E. S. A.)—</b>		
Refineries—		
1. Boilers ...	10	
2. Prime movers ...	10	
3. Process plant ...	12	
Field Operations—		
1. Boilers ...	10	
2. Prime movers ...	10	
3. Process plant ...	12	
except for the following items—		
1. Below ground ...	100	
2. Above ground—		
(a) Portable boilers, drilling tools, well- head tanks, rigs, etc. ...	30	
(b) Storage tanks ...	10	
(c) Pipe lines—		
(i) Fixed boilers ...	10	
(ii) Prime movers ...	12	
(iii) Pipe line ...	10	
Distribution—		
1. Returnable packages ...		Cost of pack- ages actually used up will be allowed as revenue expenditure.
2. Kerbside pumps including under-ground tanks and fittings ...	15	

Class of asset.	Rate. Percent-	on the written down value.	Remarks.
<b>I.—Ships (N. E. S. A.)=</b>			
(i) Ocean—			
(a) Steamer and motor Vessels ...	5		These rates are percentages on the original cost (i) For the increased rate of depreciation on ocean going steamers and motor vessels due to war time conditions, (2) the rate of depreciation on second hand ocean going steamers and motor vessels and (3) the rate of depreciation on additions to ocean going steamers and motor vessels. See Appendix A
(b) Sail or tug ...	4		
(ii) Inland=			
(a) Steamers and motor vessels ...	10		
(b) Tug boats ...	12.5		
(c) Iron or steel flats for cargo ...	10		
(d) Wooden cargo boats upto 50 tons capacity ...	10		
(e) Wooden cargo boats over 50 tons capacity ...	10		
(f) Motor launches ...	12.5		
(a) * Speed boats ...	20		
<b>Mines and quarries (N. E. S. A.)—</b>			
(i) Machinery—			
Surface and underground machinery (except electrical machinery), head gear, moving parts and rails ...	15		
(b) Boilers and head gears (excluding moving parts) ...	8		
(ii) Coal tubs, winding ropes, haulage ropes and sand-stowing pipes ...			Renewals will be allowed as revenue expenditure.
(iii) Shafts and inclines ...	7		
(iv) Portable under-ground machinery ...	25		
(v) Safety lamps			
(vi) Tramways on the surface	10		Cost of lamps actually used up will be allowed as revenue expenditure.
<b>—Aeroplanes (N. E. S. A.)—</b>			
(i) Aircraft ...	30		
(ii) Aero-engines ...	40		
(iii) Aerial photographic apparatus ...	25		
<b>II.—(i) Textile machinery excluding silk manufacturing machinery—</b>			
(a) Cotton ...	10		
(b) Jute excluding generating plant ...	9		
(c) Woollen and Worsted ...	10		
(d) Carpet ...	10		
(ii) Ginning and pressing machinery ...	9		

\* "Speed Boat" means a motor-driven boat by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 15 miles per hour in still water and so designed that when running at speed it will plane, i.e. its bow will rise from the water.

Class of asset.	Rate. Percent- age on the written down value.	Remarks.
<b>M</b> —(i) Air compressors and pneumatic machinery (ii) Electro-plating and Electro-welding plant (iii) Newspaper production plant and machinery (iv) Air-conditioning machinery (v) Locomotives, rolling stock, tramways, and railways used by concerns excluding railway concerns (N. E. S. A.)	10	
<b>N.</b> —(i) Tube well boring plant (ii) Concrete pile driving machines (iii) Weighing machines (N. E. S. A.) (iv) Works instruments (v) Automatic and semi-automatic machine tools (vi) Precision machine tools, e.g., grinding machines	12	
<b>O.</b> —(i) Calculating machines (N. E. S. A.) (ii) Typewriters (N. E. S. A.) (iii) Neo Post Franking Machines (N. E. S. A.) (iv) Accounting machines (N. E. S. A.) (v) Other office machinery (N. E. S. A.) (vi) Sewing and knitting machines employed in the manufacture of hosiery and woollen goods (vii) Sewing and stitching machines for canvas or leather (viii) Hand or automatic embroidery machines and their accessories (N. E. S. A.) (ix) Refrigeration plant, containers, etc. (N. E. S. A.) (x) Road making plant and machinery (xi) Artificial silk manufacturing machinery*...  (xii) Surgical instruments (N. E. S. A.) (xiii) Wireless apparatus and gear, wireless appliances and accessories (N. E. S. A.) (xiv) Building contractors' machinery (N. E. S. A.)		*Replacement of wooden parts of plant and machinery will be allowed as revenue expenditure.
<b>P.</b> —(i) Indigenous sugar cane crushers (Kohlus and Belans, (N. E. S. A.)	18	
<b>Q.</b> —(i) Motor cars (N. E. S. A.) (ii) Cycles (N. E. S. A.)	20	
<b>R.</b> —(i) Moulds used in the manufacture of concrete pipes (N. E. S. A.) (ii) Motor taxis, motor lorries, motor buses and motor tractors (N. E. S. A.)	20 25 25	
<b>S.</b> —(i) Railway sidings (N. E. S. A.)	7	

## APP. A.

1. Increased rate of depreciation on ocean-going steamers and motor vessels due to war-time conditions :—The rate of depreciation allowable on ocean-going steamers and motor vessels will be increased from 5 per cent to 6.25 per cent per annum for the period commencing 1st September 1939 and ending six months after the cessation of the present hostilities, the date whereof will be notified. This increase will affect years of assessment 1940-41 onwards. In order to secure that all shipping concerns receive the increased allowance for the same length of time, the allowance for the year of assessment 1940-41 will have reference to the proportions falling before and after the end of 1939 of the trading year which is the “previous year” for Income-tax purposes for that year of assessment.

## Example 1.

If the “previous year” was the calendar year 1939, the depreciation allowance for the year of assessment 1940-41 will be computed at the rate of 5 per cent for 8 months and at 6.25 per cent for 4 months.

## Example 2.

If the “previous year” were the year ending 31st March 1940, the allowance will be computed at the rate of 5 per cent for 5 months and at 6.25 per cent for 7 months.

If the assessment for 1940-41 has been closed, then where that assessment has been made at nil due to the depreciation allowances not being entirely wiped off, the additional allowance due for that year under this paragraph will be deducted from the profit assessable for the year 1941-42 and in any other case an adjustment will be made in the tax demand for 1941-42 equal to the difference in the tax demand which would have resulted if the additional allowance had been given in the assessment for 1940-41.

2. *The rate of depreciation on second-hand ocean going steamer and motor vessels* :—In the case of a steamer or motor vessel purchased second hand the normal allowance will be computed by reference to the actual cost of the steamer or the motor vessel concerned to the new owner and its reasonable expectation of life as the date of purchase. The new rate and the method of computation will have effect from the assessment for 1941-42 and not from any earlier assessment.

The following scale is to be used to determine the fractional part of the cost of a steamer or motor vessel that is to be allowed year by year as depreciation for Income-tax purposes, except where at the date of purchase the steamer or the motor vessel concerned is more than 24 years old. In such a case the rate of depreciation to be allowed will be decided by the Central Board of Revenue on the facts of each case :—

## NOTIFICATIONS

Aga at date	of purchase	Expectation of life	Fractional part of cost to be allowed as depreciation each year.
Over year	Under year.	years.	
0	1	20	1/20
1	2	19	1/19
2	3	18	1/18
3	4	17	1/17
4	5	16	1/16
5	6	15	1/15
6	7	14	1/14
7	8	13	1/13
8	9	12	1/12
9	10	11	1/11
10	11	10	1/10
11	12	9	1/9
12	13	9	1/9
13	14	8	1/8
14	15	8	1/8
15	16	7	1/7
16	17	7	1/7
17	18	7	1/7
18	19	6	1/6
19	20	6	1/6
20	21	5	1/5
21	22	5	1/5
22	23	4	1/4
23	24	4	1/4

The scale given above having been applied to find the normal allowance, the extra allowance for war time conditions will be given on the lines laid down in paragraph I above. As the increased allowance for a new vessel is one fourth of the normal 5 per cent of cost, the addition in the case of second hand steamers or motor vessels is to be taken as  $\frac{1}{4}$  of the normal allowance computed by application of the scale.

**Example**

A vessel 12 years old was purchased at the commencement of the 'previous year' to the year of assessment 1937-38 for Rs. 5,00,000. According to the scale the 'expectation of life' at the date of its purchase second hand was 9 years.

For the years of assessment 1941-42 onwards the depreciation allowance would be  $\frac{1}{19}$  of Rs. 5,00,000 = Rs. 55,556.

For years of assessment corresponding to previous years that are chargeable accounting periods for Excess Profits Tax purposes the war-time addition of  $\frac{1}{4}$  referred to in paragraph I will be

3. Depreciation on additions to ocean-going steamers and motor vessels which are treated as of a capital nature for Income-tax purposes.

Any expenditure which has been treated as capital for Income-tax purposes (*e.g.*, the installation of refrigerating plant or the renewal of engines or boilers) will be added to the prime cost of the steamer or the motor vessel concerned for the purpose of computing depreciation allowance.

The annual allowance in respect of such expenditure will be calculated as follows :—

(a) If the expenditure is or was made before the expiration of the 20 years estimated life of the steamer or the motor vessel, the normal allowance for it will be increased by such a sum as will exhaust or would have exhausted the expenditure over the remaining years of 20 years estimated life;

**Example.**

An addition of Rs. 60,000 was made to a vessel at the expiration of 17 years of its life. The normal allowance for the addition will be  $\frac{1}{2}$  of Rs. 20,000 for each of the remaining three years of the vessels' 20 years estimated life.

(b) If the expenditure is or was incurred when the vessel is 20 years old or more, the allowance will be such a sum as will exhaust or would have exhausted the expenditure over the further estimated years of life that would be given by applying the table in paragraph 2 above, if for "age at date of purchase" there were substituted "age at date of the capital expenditure".

**Example.**

An addition of Rs. 60,000 was made to a vessel 22<sup>1</sup>/<sub>2</sub> years old. The further estimated life of the vessel, according to the table in paragraph 2 is 4 years. The normal allowance for the addition will, therefore, be  $\frac{1}{2}$  of Rs. 60,000 = Rs. 15,000 for each year of the further estimated life of the vessel.

(c) in respect of a vessel purchased second hand, the normal allowance for the expenditure on additions to such a vessel will be increased by such a sum as will exhaust or would have exhausted the expenditure over the remaining years of the estimated life of the vessel given in the Table in paragraph 2 above.

**Example.**

A vessel was over 8 years and below 9 years old when purchased second hand so that its expectation of life at the date of purchase

will be 5 years. The normal allowance for the addition will be  $\frac{1}{5}$  of Rs. 60,000 = Rs. 12,000 for each of the remaining five years of the expected life of the vessel.

The increased allowance so calculated will be allowed for the year of assessment 1941-42 onwards. The extra allowance for war time conditions will also be given on the lines laid down in paragraph 1 above, but the aggregate allowance on the additions shall not exceed the cost thereof.



**8 A, 9 & 9 A.** (*Omitted by Notification Na. 20 of 1939*).

**10.\*** All sums deducted in accordance with the provisions of Section 18 of the Act shall be paid—

- (a) in the case of deduction by or on behalf of Government on the same day ; and
- (b) in all other cases within one week from the date of such deduction or the date of receipt of the chalan by the person making the deduction, as the case may be :

Provided that in cases falling under (b) the Income-tax Officer may, in special cases, and with the approval of the Inspecting Assistant Commissioner, permit an employer to pay the income-tax and super-tax deducted from any income chargeable under the head "Salaries" quarterly on June 15th, September 15th, December 15th and March 15th.

**10 A.** The prescribed rate of exchange for the calculation of the value in rupees of any income chargeable under the head 'Salaries' which is payable to the assessee out of India in sterling by or on behalf of Government shall be 1s. 6d. per rupee.

(i) In the case of income chargeable under the head "Salaries" where deduction is not made by or on behalf of Government, the person making the deduction shall forthwith send to the Income-tax Officer within whose jurisdiction the deduction is made (or where there is more than one Income-tax Officer having jurisdiction in the same area to the Income-tax Officer specified by the Commissioner of Income-tax) a statement in the following form :—

List of persons to whom salaries, pensions, annuities, gratuities, commissions, bonuses or any other sums chargeable to income-tax under Section 7 of the Income-tax Act, 1922, have been paid during the month \_\_\_\_\_ ended 19\_\_\_\_, with particulars of the amounts paid, the amounts due but not paid, and the Income-tax and Super-tax deducted.

Name of employer.

Name of person responsible for paying the salary, etc. }  
(if not the employer). }

Address.

Address.

\*Rules 10 to 12B were substituted for old Rules 10 to 12A by Notification No. 40 of 1939.

\*Notification No. 6, dated the 31st March 1945.





I, \_\_\_\_\_, being the person responsible for paying the above salaries, etc., do hereby declare that the above particulars are correct.

*Signature.*

*Date,*

**Notes :—**Columns 11, 16, 18, 20, 22, 24, 26 and 28. The total amount of salaries received, the amounts paid or deducted in respect of Provident, Superannuation or other funds, insurance premiums and the amounts of tax deducted from the beginning of the financial year or from such month after the 1st day of April as the employees entered the service of the employer should be shown.

2. In the case of an employee who has left the service of the employer, progressive totals of the amounts paid, rebate allowed and tax deducted should be shown up to the last month of the year.

3. The address of the former employer of a new employee and the address of the new employer of an outgoing employee should be given in the remarks columns wherever practicable.

(2) In cases where the trustees of an approved Superannuation Fund repay any contributions to an employee during his lifetime but not at or in connection with the termination of his employment they shall forthwith send to the Income-tax Officer specified in sub-rule (1) a statement giving the following particulars :—

1. Name and address of the employee.

2. The period for which the employee has contributed to the Superannuation Fund.

3. The amount of contributions repaid—

(a) Principal ;

(b) Interest.

4. The average rate of deduction of income-tax during the preceding three years.

5. Amount of income-tax deducted on repayment.

(3) The statements referred to in sub-rules (1) and (2) shall be drawn up in separate sections one for each place where the employees are stationed and an additional extract of those sections relating to employees who are residing outside the jurisdiction of the Income-tax Officer referred to above shall also be sent with the statement.

(4) The person responsible for making the deduction, or the trustees, as the case may be, shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the

time prescribed in Rule 10 into the Government Treasury or office of the Reserve Bank of India or of the Imperial Bank of India accompanied by an Income-tax chalan, blank copies of which shall be supplied by the Income-tax Officer for the purpose ; provided that on receipt of the above-mentioned statement the Income-tax Officer may, if so expressly requested and if satisfied that there is sufficient ground for the request, himself have the necessary chalan prepared and forwarded to the person concerned who shall thereupon pay the amount to the credit of the Central Government in the manner above described.

II-A. In the case of income chargeable under the head "Salaries" where deduction is not made by or on behalf of Government, the Commissioner of Income-tax may, in his discretion, notwithstanding anything contained in rule 10 and sub-rule (1) of rule II, permit an employer to pay income-tax and super-tax on the income of his employees chargeable under the head "Salaries" in a lump sum every month based on the average amount of income-tax and super-tax deductible every month from such income and to submit at the end of the year to the Income-tax Officer within whose jurisdiction the deduction is made (or where there is more than one Income-tax Officer having jurisdiction in the same area to the Income-tax Officer specified by the Commissioner of Income-tax) a statement giving the following particulars :—

1. Name of employee.
2. Amount of salary (or wages) paid during the year.
3. Leave salary or allowance, if any, paid outside British India.
4. Period for which the salary (or wages) was paid.)
5. House rent allowance paid during the year.
6. Value of rent free quarters for the year.
7. Bonus, gratuity, fees, commissions, perquisites or other allowances, profits in lieu of or in addition to salary, payments made at or in connection with the termination of employment, advances of salary, etc., and all other sums paid which are chargeable to income-tax. (Full details showing the total amount paid during the year, periods for which the payments were made are to be given separately for each item).
8. Salary, bonus and all other sums which were due to be paid during the year but which were not actually paid. (Full details showing the amount, the due date, and the period for which the amount was payable are to be given for each item separately).
9. Total of items 2, 3, 5, 6, 7, and 8 above.
10. Yearly amount paid or deducted in respect of provident or superannuation or other funds and life insurance premiums (give details).
11. Net amount upon which tax has been deducted during the year.

12. Total amount of income-tax deducted during the year (surcharge to be shown separately).

13. Total amount of super-tax deducted during the year (surcharge to be shown separately).

Such permission which will hold good till it is withdrawn will be granted by Commissioner of Income-tax subject to the following conditions and any other condition which he may prescribe :—

- (a) The employer shall at the end of each year calculate the income-tax and super-tax due on the income under the head “Salaries” paid to his employees during the year and adjust any excess or deficiency in the month of March, such adjustment being made within the terms of the proviso to sub-section (2) of Section 18 of the Act, *i.e.*, adjustments should be made in each individual case and any excess recovered from one employee should not be adjusted against any short recovery from another.
- (b) In the case of an employee leaving service the particulars mentioned above should be sent forthwith to the Income-tax Officer.

12. In the case of any income chargeable under the head ‘Interest on Securities’ where the deduction is not made by or on behalf of Government, the person responsible for paying the interest shall at the time of deduction send to the Income-tax Officer concerned a statement showing the following particulars :—

- (i) Description of Securities.
- (ii) Numbers of securities.
- (iii) Dates of securities.
- (iv) Amounts of securities.
- (v) Period for which interest is drawn.
- (vi) Amount of interest.
- (vii) Amount of tax, and
- (viii) Date on which tax was deducted.

12-A. The person making deduction in accordance with sub-sections (3A), (3B), (3C), (3D), and (3E) of Section 18 shall at the time of deduction send to the Income-tax Officer concerned a statement showing the following particulars :—

- 1. Name and address of the non-resident on whose behalf the tax is deducted.
- 2. The date of payment and in the case of dividend the date of the declaration of the dividend by the company.



3. The nature of payment.

4. The amount paid :—

(i) in the case of interest the rate per cent. per annum, the period for which the interest has been paid and the amount on which the interest has been computed,

(ii) in the case of dividend the gross amount before deducting income-tax along with the basis of the computation of the gross amount.

5. The amount of income-tax deducted.

6. The amount of super-tax deducted.

12-B.\* The person responsible for making deductions under subsections (3), (3A), (3B), (3C), (3D), and (3E) of section 18 shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in Rule 10 into the Government Treasury or Office of the Reserve Bank of India or of the Imperial Bank of India accompanied by an Income-tax chalan, blank copies of which will be supplied by the Income-tax Officer for the purpose ; provided that where the deduction is made by or on behalf of Government the amount shall be credited within the time and in the manner aforesaid without the production of a chalan.

13. The certificate to be furnished under Section 18 (9) of the Act by any person paying interest chargeable to income-tax on any security of the Central Government or of a Provincial Government† shall be in the following form :—

Certificate of deduction of income-tax from the interest.

on bearer bonds  
promissory notes/stock certificates/subsidiary general ledger ac-  
count balance  
Dividend No. of Coupon  
Draft No.  
Number of receipt for interest.

Certified that Rupees.....being income-tax at the rate of  
 .....paise per Rupee has been deducted from the interest  
coupon for Rs.....presented for payment by the draft  
with interest receipt

\*This Rule has been substituted for the old Rule 12-B. by Notification No. 12 dated 7-2-1942.

†The words "the Central Government or of a Provincial Government" were substituted for "the Government of India or of a Local Government" by Notification No. 40 of 1989.

from Rupees.

being the amount of interest on bearer bonds  
Government promissory notes /  
Stock certificates / Subsidiary General Ledger account balance  
 for Rs.....of the.....per cent loan of said to be the property of  
standing in the name of

Name of Office paying interest }  
 The 19 }

Signature  
 (Designation of the official  
 paying interest)

To be signed by the claimant

I hereby declare that the bearer bonds  
Govt. promissory notes / Stock certi-  
ficates / Subsidiary General Ledger acct. balance on which interest  
 as above specified has been received were my own property and were  
 in the possession of.....at the time when the income tax was  
 deducted.

*Signature*

*Date*

*N. B.* 1. The inappropriate words to be struck out—

2. The security or in the case of subsidiary General Ledger Account balance, a certificate from the Public Debt Office or office of the Reserve Bank of India concerned to be produced when required in support of any claim.

*Note :* This certificate should not be returned to the Public Debt Office. In case you desire to claim a refund of the whole or any part of the tax deducted, as shown above on the ground that your total annual income is below the taxable limit or is less than that to which the maximum rate of income tax applied, you should send the certificate to the Income Tax Officer direct with an application in the prescribed form obtainable from that office.

**13-A.** The certificate\* to be furnished under Section 18 (9) of the Act by the person paying any interest on debentures or other securities for money issued by or on behalf of a local authority or a company shall be in the following form :—

Name of Local Authority/Company.

Address.

To (1)

Name and address of payee (2)

\*In the case of bearer debentures or bonds a certificate under section 18 (9) shall only be given if the recipient of the interest declares the name and address of the real owner of the security at the time of receiving the interest.

(1) Name and address of the owner of security should be given here. In the case of bearer debentures or bonds, these particulars are to be declared by the payee concerned.

(2) To be completed only in the case of 1

I/We hereby certify that Rs. \_\_\_\_\_ being income-tax at the rate of \_\_\_\_\_ pies per rupee has been deducted from Rs. \_\_\_\_\_ being the amount of interest at the rate of \_\_\_\_\_ per cent. per annum due <sup>(1)</sup> on debentures Nos. \_\_\_\_\_ of Rs. \_\_\_\_\_ each of the <sup>(2)</sup> and that it has been or will, within the prescribed period, be paid by me/us to the Central Government at  
19 -

Superintendent, Public Debt Office,  
or Principal Officer or Managing Agents.  
(To be signed by claimant).

I hereby declare that the securities on which interest as above specified has been received, were my own property and were in the possession of \_\_\_\_\_ at the time when income-tax was deducted.

Date \_\_\_\_\_ Signature \_\_\_\_\_

(N.B.—The securities to be produced when required in support of any claim).

**13.-B.\***—The certificate to be furnished under Section 18 (9) of the Act by the person paying any interest not being “interest on securities” or any other sum chargeable under the provisions of the Act shall be in the following form :—

Name of person making payment.  
Nature of payment.  
Address.

To

Name and address of payee.

I/We hereby certify that Rupees \_\_\_\_\_ being income-tax at the rate of \_\_\_\_\_ pies per rupee and Rupees \_\_\_\_\_ being super-tax at the rate applicable have been deducted from Rupees \_\_\_\_\_ being the amount paid on \_\_\_\_\_ † at the rate of \_\_\_\_\_ per cent. per annum for the Period (1) \_\_\_\_\_ com-  
puted on the amount of Rupees (2) \_\_\_\_\_

Signature of person making payment

\*This applies to payment of interest only.

**4-A.** [Note.—In the case of the payees other than the Reserve Bank of India and the Banks scheduled under the Reserve Bank of India Act, the receipt of the payment of tax to the credit of the Central Government (*i.e.*, the counterfoil of the income-tax chalan) shall be furnished along with the certificate, and in case of Banks referred to a bond, a certificate by the Bank specifying the number and date of the chalan with which tax has been credited to the Central Government and the amount which included the particular sum shall be furnished].

(1) The date on which interest is payable.

(2) Here enter the name of the local authority or the company.

\*Introduced by Notification No. 83 of 1939.

~~4-A.~~ Inserted by Notification No. 12 of 7th February 1942.

(1) Here specify the period for which interest has been paid.

(2) Here state the amount on which interest has been computed.

13-C. The certificate to be furnished under Section 18 (9) of the Act by the person paying any dividend on shares registered in the Reserve Bank of India shall be in the following form :—

Name of person paying dividend.

Address.

To

Name of payee

I hereby certify that Rs. \_\_\_\_\_ being income-tax at the rate of \_\_\_\_\_ pias per rupee has been deducted from Rs. \_\_\_\_\_ being the amount of dividend at the rate of \_\_\_\_\_ per cent. per annum due \*on \_\_\_\_\_ shares of Rs. \_\_\_\_\_ and that it has been or will, within the prescribed period, be paid by the Bank to the Central Government at \_\_\_\_\_

Governor,  
Reserve Bank of India.

19

(To be signed by claimant.)

I hereby declare that the shares on which dividend as above specified has been received, were my own property and were in the possession of \_\_\_\_\_ at the time when income-tax was deducted.

Date

Signature

(N.B.—The shares certificates to be produced when required in support of any claim).

14. The certificate to be furnished by the principal officer of a company under Section 20 shall be in the following form :—

Date

(Name of Company).

(Address of Company)

Warrant for Rs. (in words and figures or, if the certificate is crossed by an entry in words stating that the amount of dividend is under the next multiple of Rs. 50 above the amount, in figures only) \_\_\_\_\_, being dividend <sup>1</sup> at the rate of Rs. (in words and figures) \_\_\_\_\_ per share for the <sup>2</sup>

the period from \_\_\_\_\_ to \_\_\_\_\_ during the year ending on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, <sup>3</sup> on <sup>4</sup> \_\_\_\_\_ shares in this company, registered during the said period/on (Date) \_\_\_\_\_ in the name of \_\_\_\_\_ This dividend was declared at the <sup>5</sup> \_\_\_\_\_ 19. \_\_\_\_\_ meeting held on the <sup>6</sup>

I/We hereby certify that income-tax on the entire/such part as is liable to be charged to Indian Income-tax of the profits and gains of the Company, of which this dividend forms a part, has been, or will be duly paid by me/us to the Government of India.

Date

Signature

\*Here specify the date on which dividend is payable.

(1) Or dividend and bonus.

(2) Year or half-year, as the case may be.

(3) Here enter whether free of income-tax or not.

(4) Here enter number and description of shares.

(5) Here specify number and nature of meeting.

(6) Here enter date.

(To be signed by the claimant.)

I hereby certify that the dividend above-mentioned relates to shares which were my own property at the time when the dividend was declared/during the period from \_\_\_\_\_ to \_\_\_\_\_ /on (Date) and were in the possession of  
*Date* *Signature*

15. The returns for Government officers under Section 21 of the Act shall be prepared and submitted to the Income-tax Officer by :—

- (a) Civil Audit Officers for all gazetted officers and others who draw their pay from audit offices on separate bills : and also for all pensioners who draw their pensions from audit offices.
- (b) Treasury officers for all gazetted officers and others who draw their pay from treasuries on separate bills without countersignature ; and also for all pensioners who draw their pensions from treasuries.
- (c) Heads of Civil or Military offices for all non-gazetted officers whose pay is drawn on establishment bills or on bills countersigned by the head of office.
- (d) Forest disbursing officers and Public Works Department disbursing officers in cases where direct payment from treasuries is not made, for themselves and their establishments.
- (e) Head postmasters for (i) themselves, their gazetted subordinates and establishments of which the establishments pay bills are prepared by them and (ii) gazetted supervising and controlling officers of whose headquarters post office they are in charge and (iii) pensioners drawing their pensions through post offices ; Head Record Clerks, Railway Mail Service, for themselves and all the staff whose pay is drawn in their establishment pay bills ; the Disbursing Officers in the case of the Administrative and the Audit Offices.
- (f) Controllers of Military Accounts (including Divisional Military Supply, Marine, Field and War Controllers) for all gazetted military officers under their audit.
- (g) Disbursing officers in the Military Works Department for themselves and their establishments.
- (h) Chief Accounts officers or Chief Auditors of Railways concerned for all railway employees under their audit.

16. The minimum income under the head "Salaries" referred in section 21 (a), shall be Rs. 1,200 \*per annum.

17.† The return to be delivered to the Income-tax Officer under Section 21 of the Indian Income-tax Act, 1922, to be made within thirty days from the 31st day of March in each year by the prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority

\*Rs. 2,000 changed to Rs. 1,600 by Notification No. 18 of 1939, and again changed to Rs. 1,200 by Notification No. 14, Dated 17-7-43.

†Redrafted by Notification No. 18 of 1989.

company or other public body or association and every private employer shall be made and verified in the following form :—

Government office

Local authority

Company

Public body

Association

Private employer

Designation of

..... :

Serial No.	Name of employee.	Postal address of residence	Private employer							Total amount of income-tax deducted during the year.	Remarks:			
			Appoint-ment or nature of employ-ment.	Total Amount of salary, wages, annuity or pension paid during the year end-ing on 31st March 19.	Period for which items in Column 5 were paid.	House allow-ance paid during the year.	Value of rent free quarters for the year.	Bouns, gratuity, fees commission, perqui-sites or other allow-ances, profits in lieu of salary payments made at or in connection with the termination of employment; ad-vances of salary, etc., and all other sums paid which are charge-able to income-tax. (Full details showing the total amount paid during year, period for which the payments were made are to be given separately for each distinct class of payment )	Salary, bonus, all other sums which were due to be paid during the year but which were not actually paid. (Full details show-ing the amount, the due date, and the period for which the amount was payable are to be given).			Total of columns 5, 7, 8, 9 & 10.	Yearly amounts paid in respect of Provident Fund contribu-tions and Life Insurance Premiums (give details).	Net amount upon which tax has been deducted during the year.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

I certify that the above statement contains a complete list of the total amounts paid by.....to all persons (except those in respect of whom a separate statement/returns required by rule 14/15 of the Indian Finance (Income-Tax) Rules 1942 read with the Indian Finance (Income-Tax) Rules 1943, has been made) who were receiving or to whom was due income on the 31st day of March 19 at the rate of Rs. 1,200 per annum or have received or to whom was due during the year ended on that day not less than Rs. 1,200 in respect of salary, wages, annuity, pensions, gratuity, fees, commission, perquisites or profits in lieu of or in addition to salary or wages, advances of salary payments at or in connection with retirement or any other sums chargeable to income-tax under the head "salaries" and that all the particulars stated are correct.

Dated.....  
at.....

.....Signature of person by whom the return is delivered.  
..... Designation.



**18.\*** The manner of publication under sub-section (1) of Section 22 other than publication in the press shall be as follows :—

On or before the 1st May in each year, a notice, in the form set out in Rule 18-A, or as near thereto as may be, requiring every person whose income exceeds the maximum amount which is not chargeable to income-tax, to furnish a return of his total income and total world income during the previous year in the prescribed form and verified in the prescribed manner shall be affixed to the notice board of the income-tax Officer's office and (with the consent of the Provincial Government where such consent is necessary and has been obtained) of as many of the following offices or Courts situated within the Income-tax Officer's jurisdiction as may be practicable :—

1. All Head Post Offices and Sub-Post Offices.
2. Courts of the District Judges, Subordinate Judges, Civil Judges and District Munsiffs.
3. Offices of the District Collector, Deputy Commissioners, Divisional and Sub-Divisional Officers, Tahsildars, Mamlatdars and Mukhtiarkars.

**18-A.\***—The notice referred to in sub-section (1) of Section 22 shall be in the following form :—

## NOTICE

### INCOME-TAX

*Return of total income and of total world income of the previous year for assessment in the year commencing on the 1st April 19 .*

In pursuance of sub-section (1) of Section 22 of the Indian Income-tax Act, 1922 (XI of 1922), notice is hereby given to Every Person whose total income during the previous year exceeded the maximum amount not chargeable to income-tax to furnish within sixty-five days from the date of the publication of this notice a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as are required by the said form) his total income and total world income during that year.

A copy of the prescribed form will be supplied free of charge to any person who, for the purpose of complying with this notice, applies at my office.

**Penalty**—Any person who fails without reasonable cause to furnish the return required by this notice, or fails without reasonable cause to furnish it within the time allowed or in the manner

required is liable under Section 28 of the said Act to a penalty not exceeding one and a half times any tax payable by him :

Address

Date of the publication of notice

Income-tax Officer.

NOTE.—For the year commencing on 1st April 1939, the maximum amount which is not chargeable to income-tax is as follows :—

In the case of—

(i) Any Court of Wards, Administrator-General, Official Trustee, any Receiver or Manager appointed under any order of a Court, or any trustee or trustees appointed under a duly executed trust deed, where the income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown ... Rs. Nil.

(ii) Any company or local authority ... Rs. Nil.

(iii) Any person, being a British subject or the subject of a State in India or Burma, who is not resident in British India and whose total world income exceeds Rs. 2,000 ... Rs. Nil.

(iv) Any other non-resident person ... Rs. Nil.

(v) Any other individual, Hindu undivided family, firm or association of persons ... Rs. 2,000.

19.\* (1) The return of total income and total world income for individuals, Hindu undivided families, companies, local authorities, firms, and other associations of persons required under sub-section (1) or sub-section (2) of Section 22 shall be in the following form and shall be verified in the manner indicated therein.

FORM OF RETURN OF TOTAL INCOME AND TOTAL WORLD INCOME  
FOR INDIVIDUALS, HINDU UNDIVIDED FAMILIES, COMPANIES,  
LOCAL AUTHORITIES, FIRMS AND OTHER ASSOCIATIONS  
OF PERSONS UNDER SUB-SECTIONS (1) OR (2) OF  
SECTION 22 OF THE INDIAN INCOME TAX

Act, 1922.—See note 1.

Income-tax year 19 19 .

Name...

†Status.

Address

\*New Rule 19 (1) substituted by Notification No. 7 of 1940.

†Please state here whether the assessee is Individual, Hindu undivided family, Firm, Company, Local authority or an association of persons.

PART I.

Statement of total income and total world income during the  
previous year ended . . . See note 2

Source of income.—See Note 3.	Amount of Income, Profits or Gains.— See note 4.	Tax already charged or deducted at source.— See note 5
1	2	3
	Rs.	Rs. A.
<b>SECTION A.—INCOME WHICH ACCRUED, AROSE, OR WAS RECEIVED OR IS DEEMED TO HAVE ACCRUED, ARISEN OR BEEN RECEIVED IN BRITISH INDIA</b> <i>(and, unless the assessee is not resident in British India, income arising abroad excluding income accruing or arising in an Indian State from a business controlled in, or a profession or vocation set up in India including Indian States)</i>		
1. <b>Salaries.</b> —(The value of rent-free quarters and contributions by your employer to a recognised Provident Fund with interest on such contributions and on accumulations thereof should be shown separately).—See note 6.		
2. <b>Interest on Securities.</b> —See note 7. Interest from which tax has been deducted. Interest which is tax-free.		
3. <b>Property.</b> —See note 8. Total amount as detailed in Part VI of this return.		
4. <b>Business, profession or vocation.</b> —See note 9. (a) Profits and gains as detailed in Part IV of this Return. (b) Share of profits in a registered firm. (c) Share of profits in an unregistered firm.		
5. <b>Other sources.</b> Dividends from companies (gross amount.)— See note 10. Interest on Mortgages, Loans, Fixed Deposits Current Accounts, etc. Ground Rents. Sources other than those mentioned above (give details).—See note 11.		
<b>Total of Section A</b>		
<b>SECTION B.—INCOME NOT INCLUDED IN SECTION A. WHICH ACCRUED, OR AROSE OUTSIDE BRITISH INDIA AND WAS BROUGHT INTO BRITISH INDIA DURING THE PREVIOUS YEAR.</b> <i>(Persons not resident in British India should write “not applicable” in this section.)</i>		
1. Out of income which accrued or arose during such previous year (give details).— (a) In an Indian State ... .. (b) Elsewhere ... ..		
2. Out of income which accrued or arose prior to such previous year but after 1st April 1933 (give details) excluding such part of it as has suffered tax after the commencement of the Income-tax Amendment Act, 1939.—See note 13.		
3 Out of income accruing or arising in an Indian State which has been included as part of the total-income in any preceding assessment but not actually charged to tax.		

Source of income.— <i>See note 3.</i>	Amount of Income, Profits or Gains.— <i>See note 4.</i>	Tax already charged or deducted at source.— <i>See note 5.</i>
1	2	3

**SECTION C.—INCOME WHICH ACCRUED OR AROSE OUTSIDE BRITISH INDIA DURING THE PREVIOUS YEAR AND IS NOT INCLUDED IN SECTION A. OR B.—**

Rs.

*See note 13.*

(a) Non-residents should show the full amount in column 2.

(b) Persons resident and ordinarily resident should show here their income accruing or arising abroad other than that in an Indian State—(Give Details).

(c) Income accruing or arising in an Indian State from a business controlled in or a profession or vocation set up in India including Indian States [Applicable to persons *resident whether ordinarily resident or not*].

(d) Income accruing or arising in an Indian State not included in (c) above [Not applicable to persons resident but not ordinarily resident].

*Notes*—For deduction of Rs. 4,500 under the third proviso to Section 4 (1) (c), see note 9. Income under (c) and (d) is to be included in 'total income' but is exempt from tax for any assessment for 1942-43 and subsequent years.

**TOTAL OF SECTIONS A, B AND C.—**

*See note 12*

Rs.

**PART II**

**Statement of sums included in total income in respect of which Income-tax is not payable—*See Note 14.***

- |  |            |
|--|------------|
| <ol style="list-style-type: none"> <li>1. Sums deducted from salary payable by the Crown and to which the proviso to sub-section (1) of Section 7 of the Act applies—<i>See note 15</i></li> <li>2. Sums paid to effect an insurance on the life of the assessee or on the life of his wife, or her husband or in respect of a contract for a deferred annuity; or, in the case of a Hindu undivided family, to effect an insurance on the life of any male member or his wife (The original receipt or certificate from the insurance company must be attached).</li> <li>3. Contributions to (a) any provident fund to which the Provident Funds Act, 1925, applies (b) a recognised provident fund or (c) an approved superannuation fund (d) interest on contributions to a recognised provident fund and accumulations thereof which is exempt from Income-tax.—<i>See note 16.</i></li> <li>4. Share in the income of an unregistered firm or an association of persons where the tax has already been paid or is payable on the income by the firm or association (give details).</li> <li>5. Interest on tax-free securities</li> <li>6. Income accruing or arising in an Indian State which is exempt.</li> </ol> | <p>Rs.</p> |
|--|------------|

[Items (c) and (d) in Section c of Part I]

**Total Rs.**

## PART III.

**Particulars required under Sub-section (5) of Section 22  
of the Income-tax Act, 1922.**

*(a) To be completed in the case of all persons engaged in a business, profession or vocation. In the case of a firm this section should be completed on the firm's return and not on the individual partners' return.*

Name in which the business, profession or vocation is carried on, or, in the case of a firm the firm's name.

Principal place of the business, profession or vocation.

Location and style of each branch :

- 1.
- 2.
- 3.

*(b) To be completed in the case of firms only.*

Name of each partner.	Address.	Extent of share including, interest on capital, salary, commission or other remuneration, if any. (Give details.)

*(c) To be completed in cases where the assessee is a partner in a firm or firms.*

Name and address of the firm.	Name of each partner including the assessee.	Address of each partner.	Share of each partner including interest on capital, salary commission or other remuneration if any. (Give details).

## PART IV.

**Particulars of income from Business, Profession or Vocation.**

(1) In the case of a firm this part is to be completed in the firm's return and not in the partners' individual returns.

(2) If the accounts are kept on the mercantile accountancy or book profit system a copy of the Profit and Loss Account and Balance Sheet must be attached to this Return. If the accounts are kept on any other system, the name or description of the system is to be stated and a copy of any statement which corresponds to the Profit-and loss Account in the mercantile accountancy system must be attached to this Return. In the case of a Company a copy of the Auditor's Report and certificate must also be attached.

	Rs.	Rs
<b>Profit or Loss as per Profit and Loss Account (or statement corresponding to the Profit and Loss Account) for the year ended 19</b> ... ..		
<i>Add—(Deduct if the above figure is a loss)—</i>		
Any profits or gains not included in arriving at the above figure or profit	...	...
Reserve for Bad Debts	...	...
Sums carried to reserve for provident or other funds	...	...
Interest credited to reserves or other funds	...	...
Expenditure of the nature of charity or presents	...	...
Expenditure of the nature of capital	...	...
Income-tax or Supertax	...	...
Drawings of proprietor or partners	...	...
Salaries and commission paid or credited to the proprietor or partners— <i>See note 17 (a)</i>	...	...
Interest allowed to proprietor or partners or loan account <i>See note 17 (a)</i>	...	...
Rental value of the property owned and occupied	...	...
Cost of additions to or alterations, extensions or improvements to any of the assets of the business	...	...
Losses sustained in former years and charged in arriving at the figure of profit (or loss) shown above	...	...
Depreciation of any of the assets of the business	...	...
Private or personal expenses	...	...
Any other expenditure not incurred wholly and exclusively for the purpose of the business, profession or vocation. (Give details)	...	...
Any other expenditure which is not allowable under the provisions of Section 10 of the Income-tax Act, 1922— <i>See note 17 (b)</i> . Give details :—		
<i>Deduct</i>		
Any profit or gains, capital sums or other items credited in arriving at the above figure of profit which are not taxable or upon which tax has already been paid. Give details :—		
Interest on securities tax-free	...	...
Depreciation allowable as shown in Part V of this Return— <i>See note 17 (c)</i>	...	...
Any other allowable expense which has not been charged in arriving at the above figure or profit.		
Give details :—		
<i>Net profit (or loss—See note 9)—carried to Part I of this Return</i>		

Rs.

(. B.—The above particulars should be given for each separate and distinct business, profession or vocation.



[See Note 17 (c)]

Statement of particulars prescribed under proviso (a) of sec. 10 (2) (ii) of the income-tax Act, 1922, and of the amount of depreciation allowed thereon

Statement of particulars prescribed	*Written down value as at the beginning of the accounting period, [See note 17 (c.)]	Capital expenditure during the year for additions, alterations, improvements and extensions.	Date from which the additions, etc., referred to in col. 3 are used for the purposes of the business, profession or vocation.	If plant or machinery has been sold or discarded during the year, show in this column the *written down value as at the beginning of the accounting period and the value for which it is actually sold or its scrap value.	Amount on which depreciation is now allowable.	Prescribed rate per cent.	Depreciation allowable.	Remarks.
Description of buildings, machinery, plant or furniture.	2	3	4	5	6	7	8	9

**\*Notes.**—(1) In the case of ocean-going ships, particulars of original cost instead of those of 'original cost' instead of those of 'written down value' should be furnished.  
(2) For the assessment year 1939-40, the figures to be furnished are those of 'original cost' instead of those of 'written down value'.

**PART VI.—INCOME FROM PROPERTY.**

Serial Number.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
	Name of village or town where the property is situated.		Name of Street and Number of property,	Where the property is situated in a Municipality, the name of the person in whose name the property stands in the municipal registers.	Whether the property is occupied by the owner or let.	If you are a part owner of the property state the amount of your share and the names of the other partners and their shares.	Annual Municipal valuation of the property.	Full annual rent payable by the tenant if the property is let.	Tenant's burdens [including rates] borne by owner, [Give details],	(Owner's burdens (including rates) borne by tenants. Give details,	Annual letting value after adjusting for adjustments to arrive at annual letting value.	one sixth of the annual letting value as in col. 11.	Premium paid to insure the property against damage or destruction.	Interest on a mortgage or charge on the property or interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing property.	Ground rent paid for the property.	Land revenue paid for the property.	Collection charges paid.	Amount claimed on account of the property remaining vacant.	Period during which the property remained vacant.	Total of columns 12 to 18.	Net annual value after deducting column 20 from column 11.
	Total income from Property. Less—Claim for irrecoverable rent (Give details separately) Net income from property carried to Part I of the Return																				

I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III, IV, V and VI of this Return is correct and complete, that the amounts of total income and total world income and other particulars shown are truly stated and relate to the year ended.....

and that no other income accrued or arose or was received

<u>me*</u> <u>the firm</u> <u>the family</u> <u>the association</u> <u>the company</u> <u>the local authority</u>	<u>me*</u> <u>the firm</u> <u>the family</u> <u>the association</u> <u>the company</u> <u>the local authority</u>	during the said year and that
by _____		
had during the said year no other sources of income. I further de-		
<u>I*</u> <u>the firm</u> <u>the family</u> <u>the association</u> <u>the company</u>	<u>resident and ordinarily resident</u> <u>resident but not ordinarily resident</u> <u>not resident</u>	clare that _____ was _____ in Bri-

tish India during previous year for which the Return is made.

Signature.....

† Status.....

Date

\*Note 1.—The alternatives which are not required in the declaration should be scored out.

†Note 2.—The declaration shall be signed—

- (a) in the case of an individual by the individual himself ;
- (b) in the case of a Hindu undivided family by the Manager or Karta ;
- (c) in the case of a company or local authority by the principal officer ;
- (d) in the case of a firm by a partner ; and
- (e) in the case of any other association by a member of the association.

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION.

### Notes for guidance in filling up Return Form No. I. T. 11.

*Important changes in the Act<sup>1</sup> have been made by the Income-tax (Amendment) Act, 1939, and assesseees are advised to read carefully such of these notes as are appropriate to their cases.*

1. On the publication of the notices referred to in Section 22 (1) of the Act every person or association of persons whose total income exceeds the maximum amount not chargeable with income-tax is required to make a return of his total income and his total world income whether or not he has been served with an individual notice under Section 22 (2) of that Act. The maximum amount which is not chargeable to income-tax is as follows :—

In the case of—

- (i) Any Court of Wards, Administrator General, Official Trustee, any Receiver or Manager

<sup>1</sup> Note :—In these notes “ the Act ” means the Income-tax Act, 1922.

- appointed under any order of a Court, or any trustee or trustees appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise, where the income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown ... Rs. *Nil*.
- (ii) Any company or local authority ... Rs. *Nil*.
- (iii) Any person, being a British subject or the subject of a State in India or Burma or a native of a Tribal Area who is not resident in British India and whose total world income exceeds Rs. 2,000 ...Rs. *Nil*.
- (iv) Any other non-resident person ...Rs. *Nil*
- (v) Any other individual, Hindu undivided family, firm or association of persons ...Rs. 2,000

Total income is the total income chargeable under the Act, and total world income includes all income wherever accruing of arising unless exempted under Section 3 (4) of the Act.

2. "*Previous year*" means for each separate source of income—

(a) the year ended on 31st March prior to the income-tax year, or, at the option of the assessee, the year ended on the date (prior to the 31st March) to which his accounts have been made up, or

(b) the year prescribed by the Central Board of Revenue for any case or class of cases.

Certain conditions attach to the exercise of the option referred to in (a) and certain further conditions govern the determination of "*previous year*" in respect of a business, profession or vocation newly set up, and these are shown in Clause (11) of Section 2 of the Act.

For each source of income for which the previous year does not end on the 31st March, the last date of the previous year should be shown.

3. *Sources of income*.—The following income must be included in your return under the appropriate head—

(a) *So much of the income of your wife* as arises directly or indirectly from—

(i) her membership in a firm of which you are a partner ;  
(ii) assets transferred directly or indirectly to her by you otherwise than for adequate consideration or in connection with an agreement to live apart.

(b) *So much of the income of your minor child* as arises from—

(i) his (or her) admission to the benefits of partnership in a firm of which you are a partner ;

(ii) assets transferred directly to him (or her) by you otherwise than for adequate consideration unless she is a married daughter.

(c) *So much of the income of any person or association of persons as arises from assets transferred by you to the person or association otherwise than for adequate consideration for the benefit of your wife or minor child or both.*

(d) *All income arising to any person by virtue of a settlement or disposition whether revocable or not and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939, from assets which remain your property, or by virtue of a revocable transfer of assets.*

[Section 16 (1) of the Act contains definitions of "revocable" and "Settlement or disposition"; and sets out also certain exceptions].

(e) *Income from assets transferred to persons not resident, or, if resident not ordinarily resident for the purpose of avoiding tax in the circumstances set out in Section 44-D.*

(f) *Income from securities, stocks or shares which have been sold before the date of payment of the interest or dividend and re-purchased subsequently in the circumstances set out in Section 44-E and 44-F.*

4. *An individual is "resident" in British India if he—*

(i) *is in British India in that year for a period amounting in all to one hundred and eighty-two days or more; or*

(ii) *maintains or has maintained for him a dwelling place in British India for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in British India for any time in that year; or*

(iii) *having within the four years preceding that year been in British India for a period or for periods amounting in all to three hundred and sixty-five days or more, is in British India for any time in that year otherwise than on an occasional or casual visit; or*

(iv) *is in British India for any time in that year and the Income-tax officer is satisfied that such individual having arrived in British India during that year is likely to remain in British India for not less than three years from the date of his arrival.*

*A Hindu undivided family, firm or other association of persons is resident in British India unless the control and management of its affairs is situated wholly without British India; and*

*A company is resident in British India in any year,*

(a) *if the control and management of its affairs is situated wholly in British India in that year, or*

(b) *if its income arising in British India in that year exceeds its income arising without British India in that year.*

(a) *An individual is ordinarily resident in British India if he has been resident as defined above in nine out of ten years preceding that year and has been in British India for periods amounting in all to more than two years' during the seven years preceding that year.*

(b) *A Hindu undivided family is deemed to be "ordinarily resident" in British India if its manager is ordinarily resident in British India;*

(c) *A company, firm or other association of persons is "ordinarily resident" in British India if it is resident in British India.*

5. *Tax already charged or deducted at source*—In this column only British Indian tax should be entered. Super-tax deducted at source should be shown separately (unless, in the case of a salaried person, the assessee is unaware of the allocation between income-tax and super-tax). In the case of a dividend from a Company the tax to be entered is the tax appropriated to that part of the dividend which has borne income-tax and should be calculated at the rate in force for companies for the year in which the dividend was paid. Where this figure of tax is not known, it should be estimated and the word "estimated" written below the figure. The correct figure will then be computed in the Income-tax office. If any tax deducted at source is in excess of the amount on which you are chargeable, the excess will be deducted from any other tax payable by you, provided that certificates of tax deducted are attached to this Return.

6. *Salaries* includes wages, pensions (if payable anywhere in India including an Indian State and if earned in British India), annuities, gratuities, fees, commission, allowances, perquisites, value of rent-free quarters and profits received in lieu of or in addition to salary or wages. The full amount should be entered and not the net amount after deducting income-tax, your provident fund contributions, etc.

Prior to the Indian Income-tax (Amendment) Act, 1939, the basis was the amount of salary *received* in the previous year. It is now the amount actually received or the amount due *whether paid or not*. An advance of income is to be treated as salary on the date on which the advance is received.

If *by the conditions of your employment* you are required to spend any sum out of your remuneration *wholly necessarily and exclusively in the performance of your duties* you may claim a deduction for such a sum and should give particulars. Travelling expenses from your house to your place of employment are not allowable.

A payment received by you as an employee from your employer or former employer or from a provident or other fund at or in connection with the termination of your employment, is taxable to the extent to which it does not consist of the return of your own contributions or interest thereon. Payments made solely as compensation for loss of employment and certain payments from provident funds to which the Provident Funds Act, 1925, applies, from a recognised provident fund or from an approved superannuation fund are exempted.

7. *Interest on Securities* means interest on promissory notes or bonds issued by the Government of India or any Provincial Government, or the interest on debentures or other securities issued by or on behalf of a local authority or company. The gross amount before deduction of income-tax should be entered.

Entries under this head should be accompanied by the certificate issued by the person paying the interest under Section 18 (9) of the Act.

Deductions are allowable in respect of—

(a) commission charged by a banker for collecting the interest ;

(b) interest payable on money borrowed for the purpose of investment in the securities except certain interest payable to persons abroad from which tax has not been deducted (see Section 8 of the Act for details). Full particulars (in a separate statement if necessary) should be given of any deduction claimed.

8. *Property*.—The tax is payable under this head in respect of the *bona fide* annual value of all buildings or lands appurtenant thereto, of which you are the owner, other than such portions of such buildings and lands as you occupy for the purposes of your business, profession or vocation, the profits of which are assessable to tax.

In arriving at the *bona fide* annual value add to the full rent payable by the tenant to the owner such rates and taxes paid by him as are leviable on property and are to be borne by the owner, and deduct such taxes for services as are payable by the tenant but for convenience are borne by the owner.

9. *Business, Profession or Vocation*.—You should complete item 4 (a) of Part I, and Parts IV and V of the Return in respect of any business, profession or vocation if you are the sole proprietor, or if you are making the Return on behalf of your firm. If you are a partner in a registered firm, or if your firm has applied for registration you must complete item 4 (b) of Part I, and if you are a partner in an unregistered firm you must complete item 4 (c) of Part I.

For the purpose of completing items 4 (b) and 4 (c) of Part I the share of a partner is to be determined as follows :—

(i) *The share is the share to which he was actually entitled during the previous year and not the share to which he was entitled on the date on which the assessment is to be made :*

(ii) it includes all interest (whether on loan or capital account, and whether actually paid or not) and all salary, commission or other remuneration paid, payable or credited to him.

Losses are to be computed in like manner as profits, and the balance of any loss made in the previous year for assessment for the year 1939-40, which cannot be set off wholly against other income of the same year, can be carried forward and set against the profits of the same business, profession or vocation of the following year.

Under the third proviso to Section 4 (i) persons resident (whether ordinarily resident or not ordinarily resident) are entitled to an allowance of Rs. 4,500 from the income accruing or arising abroad but not remitted to British India. This amount should be deducted as follows :—

(i) In the first instance from the income accruing or arising abroad which is to be shown in Section A of the return ;

(ii) the balance, if any, from the income to be shown in item (b) of Section C.

(iii) the remainder, if any, from the income to be shown in items (c) and (d) of Section C.

*Local authorities*.—The income of local authorities which is chargeable to income-tax is the profits and gains from a trade or



business carried on by those authorities other than income arising from the supply of a commodity or service within its own jurisdictional area.

10. *Dividends from companies.*—The gross amount should be entered after adding to the net sum received income-tax computed as explained in Note 5 above. Where the exact tax is not known, the estimated tax should be added and the figure of net dividend put in Column I followed by the word “net”.

11. (a) *Income from Agriculture* from land not paying land revenue or local rates to an authority in British India and all agricultural income arising abroad (including Indian States and Burma) should be included under this head if received in British India.

(b) *Remittances received by a wife resident in British India from her non-resident husband* are deemed to be income accruing in British India and must be included in her return if they are not paid out of income included in her husband's total income.

12. *Non-residents.*—Income-tax is payable by a non-resident on the total of Section A. If he is a British subject or the subject of a State in India or Burma or a native of a Tribal Area the income-tax is computed by reference to the average of rates appropriate to the total of Sections A and C. The income of other non-residents is chargeable at the full company rate. The income of all non-residents is chargeable to super-tax on the total of Section A at the average of the rates appropriate to the total of Sections A and C. A dividend paid without British India is deemed to be income accruing and arising in British India to the extent to which it has been paid out of profits subjected to income-tax in British India.

13. *For the Income-tax year 1939-40 only* tax is not chargeable in respect of both the income accruing or arising outside India in the previous year and the income brought into British India during that year out of income accruing or arising in earlier years but only in respect of the greater of these two amounts. If the former sum is the greater, Section B (2) should be marked “covered by Section C”, and if the latter is the greater Section C should be marked “covered by Section B (2)”.

14. Sums entered in Part II cannot be deducted from total income, but, subject to the limits laid down in the Act, a deduction will be made in respect of such sums from the income-tax payable at the average rate for the total income. No deduction from Super-tax is given in respect of these sums, except in certain special cases of members of unregistered firms and other associations of persons as provided for in the second proviso to Section 55.

15. The proviso to Section 7 (1) of the Act applies to sums deducted in accordance with the conditions of service for the purpose of securing a deferred annuity or of making provision for the employee's wife or children.

16. Details of the amounts to be entered in respect of a recognised Provident Fund should be obtained from the trustees of the fund or from your employer.

17. *Part IV.*—(a) In computing the profits or gains of a partnership *all* sums paid or credited to a partner must be disallowed. These sums will be taken into account in allocating the gross income of the business between the partners to ascertain the individual share of each partner. All sums of interest, salary or commission will thus be included in the partner's share of the firm's income and will not be again assessed on that partner as interest salary or commission respectively.

(b) Attention is particularly drawn to the provisions of Section 10 (2) (iii) and Section 10 (4) (a) of the Act which prohibit the deduction of any payment of interest chargeable under the Act which is payable without British India except interest on which tax has been paid or from which tax has been deducted, or in respect of which there is an agent who may be assessed under Section 43, or any payment chargeable under the head "Salaries" if it is payable without British India and tax has been deducted. An exception is made in the case of interest on a loan issued for public subscription before 1st April 1938. These provisions do not apply to interest or salary which is not chargeable to income-tax under the Act (*i. e.*, interest on money borrowed abroad from a non-resident and not brought into British India in any form whatever, or salary for services rendered wholly abroad by a non-resident).

(c) *Depreciation.*—For the assessment years 1940-41 and 1941-42 depreciation allowance is to be calculated at prescribed rates on the basis of "written down" value instead of on the basis of "original cost." The "written down" value to be computed as follows :—

(a) In the case of assets acquired in the previous year, the actual cost represents the "written down" value.

(b) In the case of assets acquired before the previous year but after the commencement of the Amendment Act, 1939, the actual cost less all depreciation allowable under Section 10 of the Act.

(c) In the case of assets acquired before the commencement of the Income-tax (Amendment) Act, 1939, the actual cost less for each financial year since acquisition the amount of depreciation applicable to the assets at the rates in force for each year since 1st April 1922 and at the rates in force on the 1st April 1922, for each such year prior to date, but so much of the unabsorbed depreciation allowance as has been carried forward upto and including the assessment year 1938-39 to which full effect has not been given in the assessment for the year 1939-40 is not to be deducted in arriving at the "written down" value.

With effect from the assessment for the year 1942-43 and subsequent years the "written down" value is to be computed as follows :—

(a) in the case of assets acquired in the previous year the actual cost represents the "written down" value ,

(b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed under the Act or any Act repealed thereby or under executive orders issued when the Indian Income-tax Act, 1886, was in force.

18. *General Directions—*

(a) The form must be filled in and signed in ink. Losses may be shown in red ink.

(b) Figures only are to be inserted in column (2) and (3) of Part I and should not be modified by words such as "about" or "approximately", except as stated in Note 5. The word "nil" must be entered in column (2) in Part I against each source from which you did not derive any income.

(c) If you spoil this form you should ask your Income-tax Officer for another. Erasures should not be made. You should sign your name in full against any alteration.

FORM OF RETURN OF PARTICULARS TO BE FURNISHED UNDER  
SECTION 38 OF THE INDIAN INCOME-TAX ACT, 1922

(SEE PARAGRAPH 4 OF NOTICE).

(a) To be filled up in the case of *firms* only. If this information is already given in Part III of the Return under Section 23 of the Indian Income-tax Act, 1922, write "See Part III" in this section.

Firm's Name

Address

Names of Partners.	Addresses

*Representative's Signature*

*Date*

*Designation*

(b) To be filled up in the case of *Hindu undivided families* only.

Name of family

Address

Serial No.	Names of Adult male members of family	Address.
1	(Manager or karta)	
2		
3		
4		
5		

*Representative's Signature*

*Date*

*Designation*

(c) To be filled up by Trustees, Guardians or Agents only.

Names and Addresses of persons for whom the assessee is the trustee, guardian or agent.		Whether Trustee Guardian or Agent.
Names	Addresses.	

*Designation*

*Date*

*Signature*

*Address*

(d) Statement of the names and addresses of all persons to whom assessee has paid in the previous year rent, interest, commission, royalty or brokerage or any annuity (not being an annuity; taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments.

Serial Number	Name and Address of the person to whom the payment was made.	Nature of Payment	Amount paid.	Date of payment	Whether paid in cash or by book adjustment.
---------------	--	-------------------	--------------	-----------------	---

1

2

Signature

Date

Address

- (2) \* The declaration appended to the form prescribed by sub-rule (1) shall be signed—
- (a) in the case of an individual by the individual himself ;

(b) in the case of a Hindu Undivided family by the Manager or Karta ;

(c) in the case of a company or local authority by the principal officer ;

(d) in the case of a firm by a partner ; and

(e) in the case of any other association by a member of the association.

19-A.† Notwithstanding anything contained in Rule 19, the return of total income, in respect of any income, profits or gains liable to be assessed in any year ending before the 1st April 1939 shall—

(i) in the case of individuals, firms, Hindu undivided families and other associations of persons, but not companies be in form A annexed to this Rule, and

(ii) in the case of companies be in the form B annexed to this Rule.

FORM A

FORM OF RETURN OF TOTAL INCOME FOR INDIVIDUALS, FIRMS, HINDU UNDIVIDED FAMILIES AND OTHER ASSOCIATIONS OF INDIVIDUALS.

INCOME-TAX YEAR 19 -19 .

Name of assessee.....

Designation ....

Address.....

STATEMENT OF TOTAL INCOME DURING THE PREVIOUS YEAR.

\* Rule 19 (2) inserted by Notification No. 78 of 1939.

† Published in the Gazette of India dated July 1, 1939 (Notification No. 53).

Sources of income.	2	3
	Amount of pro-fits or gains or income during the previous years.	Tax already charged on the income.
	Rs	Rs. As
1. Salaries (including wages, annuity, pension, gratuity, fees, commission, allowances, perquisites, including rent-free quarters) or profits received in lieu of, or in addition to, salary or wages. ... [See note (1) ]		
1A. The contributions made by an employer to the accounts in a recognised provident fund of the person making the return.		
1B. The interest accruing to the account mentioned in 1A which is not exempt from income tax ... [Section 58 F (2) ]		
1C. Interest accruing to the account mentioned in 1A which is exempt from income-tax. (Section 58 F (2) ]		
2. Interest on securities (including debentures) already taxed. [See note (2) ]		
3. Interest on securities of the Government of India or of local Governments declared to be income-tax free. [See note (3) ]		
4. Property as shown in detail in Schedule A ... [See note (4) ]		
5. Business, trade, commerce, manufacture or dealing in property, shares or securities (details as in note 5). [See note (5) ]		
6. Profession. [ „ (5) ]		
7. Dividends from companies (net). [ „ (7) ]		
8. Interest on mortgages, loans, fixed deposits, current accounts, etc. ... ..		
9. Ground rent ... ..		
9A. Income of wife, minor child and association of individuals. [Section 16 (3)—See note (10) ]		
10. Any source other than those mentioned above including any income earned in partnership with others. [See note (8) ]		
Total ...		
Deductions claimed—		
(a) on account of insurance premia.		
(b) on account of contributions to a provident fund to which the Provident Funds Act applies ...		
(c) on account of contributions to a recognised provident fund. [Section 58 A (a) ]		
(d) on account of interest on contributions to a recognised provident fund and accumulations thereof which is exempt from income-tax ... [Section 58 F (2) ]		
(e) others ... ..		

I declare that to the best of my knowledge and belief the information given in the above statement is correct and complete, that the amounts of income shown are truly stated and relate to the year ended----- and that no other income accrued or  
me  
arose or was received by the firm during the said year and  
the family  
the association

that the firm had during the said year no other sources of  
the family  
the association  
income.

Date \_\_\_\_\_ Signature \_\_\_\_\_

N.B.—(a) *Income accruing to you outside British India received in British India is liable to taxation, and must be entered by you in the form.*

(b) *All income from whatever source derived must be entered in the form including income received by you as a partner of a firm.*

NOTE 1.—In column 2 should be shown the gross amount of salary and not the net amount after deductions on account of income-tax, provident funds, etc.

NOTE 2.—“Interest on securities” means the interest on promissory notes or bonds issued by the Government of India or a local Government, or the interest on debentures or other securities for money issued by or on behalf of a local authority or company. Where income-tax has been deducted from the interest, or where the interest has been paid income-tax free, the amount of tax so deducted or paid should be added to the amount of interest actually received and the gross amount so arrived at should be entered in column 2 of the statement. The term “interest on securities” does not include interest on fixed deposits or mortgages or other loans, which have to be shown under heading 8.

The interest on securities of the Government of India or of local Governments declared to be income-tax free should be shown under head 3. Those which are not declared to be income-tax free should be included under this head.

Entries under this head must be supported by the certificate issued by the person or company paying the interest under Section 18 (9) of the Act.

NOTE 3.—(a) The income-tax payable on the interest receivable on a security of a local Government issued income-tax free is payable by the local Government and not by the holder of the security.

(b) Only the interest on securities of the Government of India or of a local Government declared to be income-tax free should be entered against this head. Such interest will not be charged to income-tax, but it must be included in the statement of total income in order to ascertain the rate of income-tax chargeable on other income. *It is chargeable to super-tax.*

(c) Particulars of any interest on securities issued by other authorities and stated to be free of income-tax should be entered against head 2, as income-tax on such interest is actually paid by these authorities on behalf of the recipients.

NOTE 4.—The tax is payable under this head in respect of the *bona fide* annual value of any buildings or lands appurtenant thereto, of which you are the owner, other than such portions of such



buildings and lands as you may occupy for the purpose of your business.

NOTE 5.—(a) Where you keep your accounts on the mercantile accountancy or book profits system, you must file a return in the following form :—

INCOME, PROFITS OR GAINS FROM BUSINESS, TRADE, COMMERCE.

	Rs.	As.
Income, profits or gains as per Profit and Loss Account for the year ended.....19...		
Add any amount debited in the accounts in respect of—		
1 Reserve for bad debts		...
2. Sums carried to reserve for provident or other		...
3. Expenditure of the nature of charity or presents .		...
4. Expenditure of the nature of capital		..
5. Income-tax or super-tax		..
6. Drawings or salary of proprietor, drawing of partners and salary of partners		...
7. Rental value of property owned and occupied		...
8. Cost of additions to or alterations, extensions, improvements of, any of the assets of the business.		...
9. Interest on the proprietor's or partners capital including interest on reserve or other funds		...
10. Losses sustained in former years		..
11. Losses recoverable under an insurance or contract of indemnity		...
12. Depreciation of any of the assets of the business		..
13. Private or personal expenses and expenses not incurred solely for the purpose of earning the profits		...
	Total	...
Deduct—Any profits included in the account already charged to Indian income-tax and the interest on securities of the Government of India or of local Governments declared to be income-tax free		...
Balance		

(Signature of the person making the return).

Date.....19 .

State here amount of salary paid to a *partner* and not added back on the ground that it is not an appropriation of profits ... .. Rs.

(b) Where you do not keep your accounts on the mercantile accountancy or book profits system, but on a cash basis you must file a statement showing how you arrive at the taxable profits, *i.e.*, showing details of the gross receipts and of the expenditure you propose to set against those receipts specifying separately salary paid to partners and deducted from gross receipt as not being an appropriation of profits. No deductions are permissible on account of—

- (i) Property owned and occupied by the owner of a business for the purposes of a business ;
- (ii) Additions to, or alterations, extensions, or improvements of, any of the assets of the business ;
- (iii) Interest on the capital of the proprietors or partners of the business ;

- (iv) Bad debts not actually written off in the accounts ;
- (v) Losses sustained in previous years ;
- (vi) Reserves of any kind ;
- (vii) Sums paid on account of the income-tax or super-tax or any tax levied by a local authority other than local rates or municipal taxes in respect of the portion of the premisses used for the purposes of the business ;
- (viii) Any expenditure of the nature of charity or a present ;
- (ix) Any expenditure of the nature of capital ;
- (x) Any loss recoverable under an insurance or a contract of indemnity ;
- (xi) Depreciation of any kind other than that specified in the Act ;
- (xii) Drawings of salary of proprietor, drawings of partners and salary of partners if it be an appropriation of profits ;
- (xiii) Private or personal expenses of the assessee ;
- (xiv) Any expenditure of any kind which is not incurred solely for the purpose of earning the profits.

If you have included any sums in your expenditure in your books, you must exclude them from the expenditure permissible for the purpose of arriving at your taxable profits.

(c) You are also required to attach a statement showing the sums charged in your accounts under the provisions of Section 58K (2).

NOTE 6.—The income, profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred *solely* for the purpose of such profession or vocation, provided that no allowance is made on account of any of your personal expenses. Professional fees received by you in any part of India (whether within British India or not) must be included by you in your receipts.

NOTE 7.—Income-tax chargeable on the profits of companies is paid by the companies, so that the dividends received by the shareholders represent the net amount remaining after any income-tax due by the company has been paid. This amount should be entered in column 2 of the statement. The proportionate tax will be added in the Income-tax Office.

*If the rate of tax applicable to your total income is less than the rate of tax applicable to the profits or gains of the company at the time of the declaration of such dividends, you may, by attaching the company's certificate received with the dividends, have the excess collected on your dividends from the company set against the tax payable by you on your other income instead of having to apply separately for a refund.*

NOTE 8.—Agricultural income from land not paying land revenue or local rates to an authority in British India should be included under this head or under income from business according to circumstances.

NOTE 9.—Deductions from total income can only be made for insurance premia in respect of a insurance on your own life or on the life of your wife, or in respect of a contract for a deferred annuity on your own life or on the life of your wife. No deduction is permissible in the case of any other form of insurance except in the case of Hindu undivided families where deductions are permissible on account of premia paid in respect of insurance on the life of any male member of the family or of his wife. The original receipt or the certificate of the insurance company to which the premium was paid must be attached to the return.

NOTE 10.—(a) Under Head 9-A you should enter so much of the income of your wife or minor child as arose directly or indirectly—

- (i) from the membership of your wife in a firm of which you are a partner ;
- (ii) from the admission of your minor child to the benefits of partnership in a firm of which you are a partner ;
- (iii) from any assets transferred by you directly or indirectly to your wife otherwise than for adequate consideration or in connection with an agreement to live apart ; and
- (iv) from any assets transferred by you directly or indirectly to your minor child, not being a married daughter.

(b) Under this head you should also enter so much of the income of any association of individuals consisting of yourself and your wife as arises from any assets transferred by you to such association.

#### Schedule A.

Serial No.	Name of village or town where the property is situated.	Name of Moh-alla or Street and number of property.	In the case of municipalities the name of the person in whose name the property stands in the municipal registers.	Whether the property is occupied by owner or is let.	Annual letting value of the property	Period during which the property remained vacant.
1	2	3	4	5	6	6A

Amount of rent actually received from the property, if let.	DEDUCTIONS.								Net amount to be carried over to the front of the form.
	One-sixth of the annual letting value shown in column 6	Premium paid to insure the property against damage or destruction.	Interest on a mortgage or charge on the property	Ground rent paid for the property.	Land revenue paid for the property.	Collection charges paid.	Amount claimed on account of property remaining vacant.	Total of columns 8 to 13A.	
7	8	9	10	11	12	13	13A	14	15

FORM B.  
FORM OF RETURN OF TOTAL INCOME OF A COMPANY

Income-tax year 19 -19 .

Name of Company  
Its principal place of business\_\_\_\_\_

Total income of the Company.

Income, profits or gains as per profit and loss account for the year ended _____ 19 .	Rs.	Rs.
Add any amount debited in the accounts in respect of—		
1. Reserve for bad debts ...		
2. Sums carried to reserve for provident or other funds ...		
3. Expenditure of the nature of charity or presents ...		
4. Expenditure of the nature of capital ...		
5. Income-tax or super-tax ...		
6. Rental value of property owned and occupied ...		
7. Cost of additions to, or alterations, extensions, improvements of, any of the assets of the business ...		
8. Interest on reserve or other funds ...		
9. Losses sustained in former years ...		
10. Losses recoverable under an insurance or contract of an indemnity ...		
11. Depreciation of any of the assets of the company ...		
12. Expenses not incurred solely for the purpose of earning the profits ...		
TOTAL ...		
Deduct—Any profits or income included in the accounts on account of—		
(a) Interest (net amount) on securities taxed at source ...		
(b) Interest on securities tax-free ...		
(c) Dividends (net amount) from companies taxed in British India ...		
*(d) Other items already taxed at source (specify details) ...		
BALANCE ...		

\*If any other deductions is to be claimed, please give particulars thereof in a separate letter to be forwarded with return.

If the Company owns any property not occupied for the purposes of the business, a statement in the form prescribed in the Schedule overleaf should be attached with particulars of the credit and debit on account of such property entered in the accounts.

Declaration

I, the [Secretary, etc., see section 2 (12) (name of Company)], declare that the information against each head in this return is correctly given as shown in the books of the Company as also in the accounts which have been duly audited by the auditors of the Company and which have been adopted by the shareholders of the Company.

Date

19 .

Signature  
Designation

(2) The company shall also attach to the return a statement showing the sums charged in the accounts under the Provisions of section 58 K (2).

N.B.—This return must be accompanied by a copy of the profit and loss account referred to above.

Schedule referred to overleaf.

Serial No.	Name of vil- lage or town where the property is situated.	Name of Mo- halla or Street and number of property, if any.	In the case of municipalities the name of the person in whose name the property stands in the municipal re- gisters.	Whether the pro- perty is occupied by owner, or is let.	Annual letting value of the pro- perty.	Period during which the property remained vacant.
1	2	3	4	5	6	6A

Amounts of rent ac- tually received for the property if let.	DEDUCTIONS.							Total of columns 8 to 13A.	Net Amount
	One-sixth of the an- nual let- ting value shown in column 6.	Premium paid to insure the property against damage or destruc- tion.	Interest paid on a mortgage or charge on the property.	Ground rent paid for the pro- perty.	Collec- tion char- ges paid	Amount claimed on ac- count of property remain- ing va- cant.	Land revenue paid for the pro- perty.		
7	8	9	10	11	13	13A	12	14	15

20.\* The Notice of Demand under Section 29 shall be in the following form :—

INCOME-TAX.

Notice of Demand under Section 29 of the Income-tax Act, 1922.

To

Take notice that for the assessment year.....the sum of Rs.....as specified overleaf, has been determined to be payable by you.

\* Redrafted by Notification No. 34 of 1939.

2. Whereas you have not paid the sum of.....  
the year..... on the prescribed date.....in  
accordance with the Notice of Demand served on you on.....  
.....you are hereby informed that a penalty of Rs.....  
.....has been imposed upon you under Section 46 (1) of the Indian  
Income-tax Act, 1922.

3. You are required to pay the amount on or before the.....to  
Treasury Officer,  
Sub-Treasury Officer,  
Agent, Imperial Bank of India, ..... at.....  
Reserve Bank of India,  
when you will be granted a receipt. A chalan is enclosed for the  
purpose.

4. If you do not pay the amount on or before the date specified  
above you will be liable under Section 46 (1) to a penalty which  
may be as great as the tax due from you.

5. You are further warned that unless the total amount dues,  
including this penalty, is paid on or before.....19 ..  
further penalty will be imposed on you (and a warrant of distress,  
will be issued for the recovery of the whole amount due with cost).

6. The assessment has been made under sub-section (4) of  
Section 23 of the Indian Income-tax Act, 1922 because you failed to  
make a return of Your income under Section 22 (2) ;  
to comply with a notice under sub-section (4) of Section 22 ;  
to comply with a notice under sub-section (2) of Section 23 ;  
but if you were prevented by sufficient cause from making the  
return or did not receive the notice(s) aforesaid or had not a rea-  
sonable opportunity to comply, or were prevented by sufficient  
cause from complying with the terms of the notice (s) you may  
apply to me, within one month from the receipt of this notice,  
under Section 27, to cancel the assessment and proceed to make a  
fresh assessment.

7. If you intend to appeal against the assessment you may  
present an appeal under sub-section (1) of Section 30 of the Indian  
Income-tax Act, 1922, to the Appellate Assistant Commissioner of  
Income-tax at.....within 30 days of the receipt of this  
notice, in the form prescribed under sub-section (3) of Section 30,  
duly stamped and verified as laid down in that form but no appeal  
will lie against an order under Section 46 (1) unless the tax has  
been paid.

Dated....., 19 .. Income-tax Officer.

Place..... Address.

Delete inappropriate paragraphs and words.

#### ASSESSMENT FORM.

Assessment for 19 ..-19 .. under Sec. .. of the Income-tax Act, 1922.

Name of assessee..... District or Area.....

Status..... Number in General Index.....

Address..... Number of Miscellaneous Record.....

Detailed sources of income	Amount of income.	Tax already deducted or source.			
		Income-tax		Super-tax.	
		Rs.	As.	Rs.	As.
<b>Total income :—</b>					
Salaries	...				
Interest on securities	...				
Property	...				
Business, Profession or vocation	...				
Other sources. (In the case of dividends the gross amount liable to tax and the tax appropriate should be shown).					
1.	...				
2.	...				
3.	...				
<b>Total income</b>	...				
<b>Adjustments to total income to arrive at total world income <sup>1</sup> (give details)</b>					
<b>The World income <sup>1</sup></b>	...				
<b>Gross Income-tax and super-tax chargeable on Total Income</b>	...				
<b>Gross Income-tax and super-tax computed on Total World Income <sup>1</sup></b>	...				
<b>Average rate of Income tax super-tax ;.....pies in the rupee</b>					
<b>Sums included in total income in respect of which Income-tax and / or super-tax is not payable :—</b>					
(a) Under section 7 (1) or on account of a Provident Fund to which the Provident Funds Act, 1925, applies					
(b) On account of recognised Provident and superannuation Funds.					
(c) On account of Insurance Premia	...				
(d) Share from association of persons or from unregistered firm on the profits of which tax has already been paid or partnership profit from registered firm charged to tax in the hands of the firm under the second proviso to Section 23 (5) (a).					
(e) Interest from tax-free securities of the Central Government or of a Provincial Government and / or a portion of a dividend paid out of tax- free income and any other income exempted from income-tax					
(f) Income accruing or arising within an Indian State					
(g) Profits of Co-operative Societies or dividends or other payments received out of such profits.					
<b>Total amount upon which relief is due and income-tax and / or super-tax thereon</b>					
		{ (For income-tax relief)		{ (For super-tax relief)	
<b>Deduct income-tax and super-tax deducted or otherwise paid at source as above.</b>	...				
<b>Deduct income-tax relief</b>	...				
<b>Net amount of income-tax and super-tax payable refundable</b>					
<b>Penalties under sections 25 (2), 28, 44E, 44F and 46</b>					
<b>TOTAL SUM PAYABLE REFUNDABLE (IN FIGURES AS WELL AS IN WORDS)</b>					
<b>Rs. as. (figures); Rupees annas (words).</b>					
<b>Date.....</b>					
<b>1 To be completed in the case of non-residents only.</b>					
<b>2 Delete inappropriate words or figures.</b>					



“ 20A. Notwithstanding anything contained in rule 20, the notice of demand under Section 29 to be served upon the assessee in pursuance of an order under sub-section (1) of Section 18A shall be in the following form :—

Notice of Demand under Section 29 of the Indian Income-tax Act, 1922, for advance payment of tax under Section 18A (1) of the Act.

To.

Take notice that under sub-section (1) 18A of the Indian Income-tax Act, 1922, the sum of Rs.....as specified below has been determined to be payable by you during the financial year 194-4.

\*2. Whereas after issue of the previous notice of demand served on you.....your assessment  
as assessment of the registered  
for a previous year

firm in which you are a partner  
later than that referred to in the notice of demand has been completed, the sum payable by you has been re-determined to be Rs.....as specified below.

3. You are required to pay the amount in equal instalment (s) on or before the 15th June, 15th September, 15th December 194 and 15th March 194 .

respectively to the  
\*Treasury Officer  
Sub-Treasury Officer  
Agent, Imperial Bank of India  
Reserve Bank of India

at.....when you will be granted a receipt.....  
Chalan (s)\* is/are enclosed for the purpose in which you should enter the amount of each instalment at the time of payment. If this notice of demand is served on you after any of the dates on which the instalments specified herein are payable, the whole tax is payable in equal instalments on the dates which fall after the service of the notice or in one instalment if the notice is served after the 15th day of December 194 .

4. If at any time before the last instalment as aforesaid is due you estimate that your income (other than the income on which tax is deductible at source under Section 18) for the previous year for assessment for the year ending on the 31st day of March 194 is less than the income on which you have been required to pay tax as above you may send to the Income-tax Officer an estimate of the tax so payable on such estimated income and should pay such amount (Less any instalments already paid in accordance with paragraph 3 of this notice) as accords with your estimate in equal instalments on such of the dates specified above as have not expired or in one sum only if the last of such date has not expired. For this purpose you should enter in the appropriate chalans the amount payable according

to your estimate. You may revise your estimate at any time before the last instalment is due and may adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or instalments.

5. If your income of the previous year for assessment for the year ending on the 31st day of March 194 includes any income of the nature of commission which is payable periodically and is not received or adjusted by the payer in your account before any of the quarterly instalments of tax becomes due, you may defer the payment of tax on that part of your income to the date when such income is normally receivable or adjustable, and if you do so, you should inform the Income-tax Officer of the date to which the payment is so deferred within 15 days of the receipt of adjustment in your account of such income, you will be liable to pay interest thereon at 6 per cent per annum from the date of receipt or adjustment to the date of payment of tax.

6. If not having made an estimate of the tax payable by you under Section 18A(2) you do not pay any instalment of tax on or before the date on which as specified in paragraph 3 of this notice it becomes due, you will be treated as in default in respect of such instalment and will be liable under Section 46(1) to a penalty which may be as great as the amount of the instalment due. If, however, you have under sub-section (4) of Section 18A referred the payment of a part of the tax and have informed the Income-tax Officer accordingly you will not be treated as in default in respect of such tax until the date of deferment.

7. If under sub-section (2) of Section 18A you send to the Income-tax Officer an estimate of the tax payable by you, but do not pay any instalment of tax in accordance therewith on or before the appropriate date, you will be treated as in default in respect of such instalment and will be liable under Section 46(1) to a penalty which may be as great as the amount of the instalment.

Dated 194

Place.....

Income-tax Officer,

Address.....

Order under section 18A(1) of the Income-tax Act, 1922.

Name of assessee

District or Area

Status

Number in General Index

Address.

Total income determined in the latest completed assessment being that for the year 191 . 194. Rs.

Less share of income if any, from a registered firm where the assessment of the firm has been completed for a year later than that referred to above. ————

Add share of income, if any, from a registered firm according to the latest completed assessment of the firm. ————

Total income.....

Adjustments to total income to arrive at total world income in the case of a non-resident. ————

Total world income.....

\*Delete inappropriate paragraphs or words.

Income-tax.

Surcharge  
on in-  
come-tax.

Super-tax.

Surcharge  
on super-  
tax.

Gross income-tax and super-tax chargeable on 'total world income (in the case of a non-resident only).

Gross income tax and super-tax chargeable on 'total income.'

Sums included in total income in respect of which income-tax and for super-tax is not payable.

(i) Income to which the provisions of section 18 apply.

(ii) Income which is exempt from tax, e. g., share of income from an association of persons or an unregistered firm on the profits of which tax has already been paid

(iii) income accruing or arising within an Indian state.

(iv) Interest on tax free securities.

(v) Life Insurance premia.

Total amount on which tax is not payable and proportionate tax thereon.

for income-tax

for super-tax

Deduct amount by which the net dividend income, if any, is increased and any excess tax on income on which income-tax is deductible under Section 18 at the maximum rate.

Net amount of income-tax and super-tax.

Less amount on account of estimated double income-tax relief, if any.

Balance payable.

Less tax already paid in the financial year under Section 18A in compliance with the previous notice of demand served on 194 .

Net amount of tax  
payable  
refundable.

Total sum payable (in figures as well as in words).

Refundable

Rs. as. (Rupees annas).

Date

Income-tax Officer.

Address.

21\* An appeal under section 30 shall, in the case of an appeal against a refusal of an Income-tax Officer to make a fresh assessment under section 27, be in Form A; in the case of an appeal against an order of an Income-tax Officer under section 25(2) in Form C; in the case of an appeal against the order of an Income-tax Officer under section 25-A in Form C (1); in the case of an appeal against an order of an Income-tax Officer under section 28 in Form D; in the case of an appeal against a refusal of an Income-tax officer to register a firm under section 26-A in Form D-1; in the case of an appeal against an order of an Income-tax Officer under section 23-A in Form F; in the case of an appeal against an order of an Income-tax Officer under section 26 (2) in Form G; in the case of an appeal against an order of an Income-tax Officer under section 44 E (6) or 44 F (5) in Form K; in the case of an appeal against an order of an Income-tax Officer under section 46 (1) in Form I; in case of an appeal against an order under section 48, 49 or 49F refusing to grant a refund in Form J and in other cases in Form B.

### Form A.

*Form of appeal against an order refusing to re-open an assessment under section 27.*

To

The Appellate Assistant Commissioner of

The day of 19 .

The petition of of port  
office, District sheweth as follows:—

1. Under the Indian Income-tax Act, 1922, your petitioner's income loss has been computed at Rs. for the year commencing 1st day of April 19 .

2. Your petitioner was prevented by sufficient cause from making the return required by section 22 (2), or did not receive the notice issued under sub-section (4) of section or sub-section (2) of section 23, or had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of the notice under sub-section (4) of section 22 or sub-section (2) of section 23, as more particularly specified in the statement attached.

3. Your petitioner therefore presented a petition to the Income-tax Officer under section 27, requesting him to cancel the assessment. This petition, the Income-tax Officer, by his order dated

of which a copy is attached, has rejected.

4. Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and that he may be directed to make a fresh assessment in accordance with the law.

*Signed.\*\**

\*Rr. 21 & 22 substituted for old Rr. 21, 21 A and 22 by Notification No. 35 of 1939.

## STATEMENT OF FACTS

*Form of Verification.*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above statement of facts is true to the best of my information and belief.

*Signed.\*\**

\*\*[N. B. The form of appeal and the form of verification appended thereto shall be signed .....

- (a) in the case of an individual, by the individual himself;
- (b) in the case of a Hindu undivided family by the Manager or Karta;
- (c) in the case of a company or local authority, by the principal officer;
- (d) in the case of a firm, by a partner;
- (e) in the case of any other association, by a member of the association.]

**Form B.***Form of Appeal against Assessment to Income-tax.*

To

The Appellate Assistant Commissioner of

The

day of

19 .

The petition of

of

post office,

District sheweth as follows :—

1. Under the Income-tax Act, 1922, for the year commencing the first day of April 19 ;

\*your petitioner's total income has been assessed at.....

Your petitioner's total world income has been assessed at.....

the amount of tax payable by your petitioner has been determined at.....

the amount of loss incurred by your petitioner has been computed at.....

your petitioner has been granted a refund of.....

\*2. The notice of demand

order under section 23 (6)

intimation of the amount of loss

intimation of the orders of refund

attached hereto, was served upon your petitioner on.....

\*3. During the previous year ending.....\*your

total income was.....

total world income was.....

petitioner's

total tax works out at.....

loss amounted to.

refund allowable to your petitioner was.....

.....and that during the said previous year your petitioner had no other income.

4. Your petitioner has made a return of his income to the Income-tax Officer.....under Section 22, sub-section (1)/(2) of the Act and has complied with all the terms of the notice served on him by the Income-tax Officer under Section 23 (2) and/or [Section 22 (4)].

5. Your petitioner therefore prays that

\*he may be assessed accordingly.

he may be declared not to be chargeable under the Act.

his loss may be determined at.....

he may be granted a refund accordingly.

*Signed.\*\**

\*Delete the inappropriate words.

New para 2 in Form B above was substituted for the old para 2 by notification No. 13 dated 14-2-1942.

### **GROUND S OF APPEAL.**

#### *Form of Verification.*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Signed.\*\*

— — — — —

\*\*[N. B. :—The form of appeal and the form of verification appended thereto shall be signed.....]

- (a) in the case of an individual, by the individual himself ;
- (b) in the case of a Hindu Undivided family by the Manager or Karta ;
- (c) in the case of a company or local authority, by the principal officer ;
- (d) in the case of a firm, by a partner ; and
- (e) in the case of any other association, by a member of the association.

### **FORM C.**

#### *Form of appeal against an order under Section 25 (2).*

To

The Appellate Assistant Commissioner of Income-tax,

The \_\_\_\_\_ day of \_\_\_\_\_ 19 .

The petition of \_\_\_\_\_ of \_\_\_\_\_ post

office, \_\_\_\_\_ District sheweth as follows :—

1. Under Section 25 (2) of the Indian Income-tax Act, 1922, a penalty of Rs. \_\_\_\_\_ has been imposed on your petitioner. The notice of demand attached hereto was served upon him on \_\_\_\_\_

(2) Your petitioner was prevented by sufficient cause as more particularly explained below from giving notice within the time prescribed by Section 25 (2) to the Income-tax Officer of the discontinuance of his business, profession or vocation.

3. Your petitioner therefore requests that the order of the Income-tax Officer imposing a penalty of Rs. \_\_\_\_\_ upon your petitioner may be set aside.

Signed.\*\*

### **STATEMENT OF FACTS.**

#### *Form of Verification.*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above statement of facts is true to the best of my information and belief.

Signed.

— — — — —

\*\*[N. B. :—The form of appeal and the form of verification appended thereto shall be signed.....]

- (a) in the case of an individual, by the individual himself ;
- (b) in the case of a Hindu Undivided family by the Manager or Karta ;
- (c) in the case of a company or local authority, by the principal officer ;
- (d) in the case of a firm, by a partner ; and
- (e) in the case of any other association, by a member of the association.]

**Form C (1).**

*Form of Appeal against an order under Section 25-A.*

**Ta**

**The Appellate Assistant Commissioner of Income-tax,**

The day of 19 .

The petition of \_\_\_\_\_ of \_\_\_\_\_ post office,

District sheweth as follows :—

Under Section 25-A of the Indian Income-tax Act, 1922, your petitioner/petitioners who belonged to a Hindu Family, hitherto assessed as undivided, claimed before the Income-tax Officer, at the time of assessment that a partition

had taken place among the members of the family and that the joint family property had been partitioned among the various members (or group of members) in definite portions and prayed that an order might be passed to this effect as laid down in Section 25-A (1) and that an assessment be levied as laid down in Section 25-A (2).

(2) By this order dated the \_\_\_\_\_ a copy of which is herewith attached, the Income-tax Officer has refused to pass the order referred to above and make assessments accordingly as laid down in Section 25-A (2). Your petitioner/petitioners therefore request (s) that the Income-tax Officer may be directed to pass such an order under Section 25-A (1) and to levy an assessment as laid down in Section 25-A (2).

*Signed.*

## **GROUND** **S OF APPEAL.**

### Form of Verification.

I/We \_\_\_\_\_, the petitioner/petitioners, named in the above petition do hereby declare that what is stated therein is true to the best of my/our information and belief.

*Signed.* \* \*

**\*\*[ *N. B.* The form of appeal and the form of verification appended thereto shall be signed personally by the appellant or appellants. ]**

**Form D.**

*Form of Appeal to the Appellate Assistant Commissioner  
against an order under Section 28.*

To

**The Appellate Assistant Commissioner of Income-tax,**

The                      day of                      19 .

The petition of \_\_\_\_\_ of \_\_\_\_\_ post office

District sheweth as follows :—

1. Under Section 28 of the Indian Income-tax Act, 1922, a penalty of Rs. \_\_\_\_\_ has been imposed on your petitioner by the Income-tax Officer. The notice of demand attached hereto was received by your petitioner on \_\_\_\_\_



Your petitioner had reasonable cause for not furnishing the return of his total income which he was required to furnish under sub-section (1) or sub-section (2) of Section 22 or Section 34, or for not furnishing it within the time allowed and in the manner required by such notice.

Your petitioner had reasonable cause for not complying with the notice under sub-section (4) of Section 22 or sub-section (2) of Section 23.

Your petitioner did not conceal the particulars of his income or deliberately furnish inaccurate particulars of such income.

(3) For the reasons given in the grounds of appeal your petitioner therefore prays that the order of the Income-tax Officer may be set aside.

*Signed. \* \**

#### GROUND OF APPEAL.

##### *Form of Verification.*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

*Signed.\*\**

**\*\*N. B.:** The form of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual, by the individual himself ;
- (b) in the case of a Hindu Undivided family by the Manager or *Karta* ;
- (c) in the case of a company or local authority, by the principal officer ;
- (d) in the case of a firm, by a partner ; and
- (e) in the case of any other association, by a member of the association.

#### Form D-1.

*Form of appeal against an order of refusing to register a firm under Section 26-A, in case of an appeal against a refusal of the Income-tax Officer to register a firm on the cancellation of the registration of a firm under sub-section (u) of Section 23 in form O. 11.*

To

The Appellate Assistant Commissioner of  
The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_  
The petition of \_\_\_\_\_ of \_\_\_\_\_ post office,  
District sheweth as follows :—

Under Section 26-A of the Indian Income-tax Act, 1922, your petitioner applied to the \_\_\_\_\_ Income-tax Officer  
for the registration of the firm

By his order, dated the \_\_\_\_\_ a copy of which is herewith attached, and of which the information was received by your petitioner on \_\_\_\_\_ the Income-tax Officer has refused to register the said firm.

Your petitioner, therefore, requests that the order of the Income-tax Officer may be set aside and that he may be directed to register the firm.

*Signed.\*\**

\*Delete the inappropriate words.

### **GROUND S OF APPEAL.**

#### *Form of Verification.*

I, \_\_\_\_\_, the petitioner named in the above petition do hereby declare that what is stated therein is true to the best of my information and belief.

*Signed.\*\**

**\*\*Note:—** The form of appeal and the form of verification appended thereto shall be signed by a partner of the firm.

### **Form F.**

#### *Form of appeal against an order under Section 23-A.*

To

The Appellate Assistant Commissioner,  
The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
The petition of \_\_\_\_\_ of \_\_\_\_\_ post office  
District sheweth as follows :—

1. The Income-tax Officer of \_\_\_\_\_ with the approval of the Inspecting Assistant Commissioner of \_\_\_\_\_ has passed an order dated \_\_\_\_\_ (of which a copy is attached) under sub-section (1) of Section 23-A of the Indian Income-tax Act, 1922 that the undistributed portion of the assessable income of the company for the year as computed for income-tax purposes shall be deemed to have been distributed as dividends amongst the shareholders as at the date of the general meeting held on \_\_\_\_\_

2. Your petitioner being of opinion, on the grounds set out below, that the order of the Income-tax Officer should not have been passed prays that the said order may be set aside.

*Signed.\*\**

### **STATEMENT OF GROUNDS OF APPEAL.**

#### *Form of Verification.*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the statement of grounds of appeal is true to the best of my information and belief.

*Signed.\*\**

**\*\*[Note :—** The form of appeal and the form of verification appended thereto shall be signed by the principal officer of the Company.]

### **Form G.**

#### *Form of appeal against an order under proviso to sub-section (2) of Section 26.*

To

The Appellate Assistant Commissioner,  
The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
The petition of \_\_\_\_\_ of \_\_\_\_\_  
post office, \_\_\_\_\_ District sheweth

**as follows :—**

1. Under the proviso to sub-section (2) of section 26 of the Indian Income-tax Act, 1922, your petitioner has been held liable in respect of the tax of Rs. The Notice of Demand attached hereto was served upon him on

2. As will be seen from the grounds of appeal attached hereto this tax should be recovered from whom your petitioner has succeeded.

**3.** Your petitioner therefore requests that the order of the Income-tax Officer imposing tax of Rs. \_\_\_\_\_ upon your petitioner be set aside.

*Signed. \*\**

## **GROUND** **S OF APPEAL.**

### Form of Verification

I, \_\_\_\_\_, the petitioner, named in the above petition do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief.

**Signed.\*\***

**\*\*[ N.B. :— The form of appeal and the form of verification appended thereto shall be signed :—**

- a) in the case of an individual by the individual himself,
- b) in the case of a Hindu Undivided family by the Manager or *Karta*,
- c) in the case of company or local authority by the principal officer,
- d) in the case of a firm, by a partner, and
- e) in the case of any other association, by a member of the association.]

**Form H.**

*Form of appeal against an Order under Section  
44-E (6) or 44-F (5).*

To

**The Appellate Assistant Commissioner,**

**The day of**

19 .

# The petition of

of

post office,

**District sheweth as follows :—**

1. Under Section 44-E (6)/44-F (5) a (further) penalty of Rs. \_\_\_\_\_ has been imposed on your petitioner by the Income-tax Officer \_\_\_\_\_, The notice of Demand attached hereto was served upon him on \_\_\_\_\_

2. As will be seen from the grounds of appeal attached hereto your petitioner had reasonable excuse for failure to comply with the notice of to furnish statement of particulars required by the Income-tax Officer.

3. Your petitioner therefore requests that the order of the Income-tax Officer imposing a (further) penalty of Rs. upon your petitioner may be set aside.

**Signed.**

# **GROUND S OF APPEAL**

## *Form of Verification.*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief.

*Signed.\*\**

\*\*[N. B. :—The form of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual by the individual himself,
- (b) in the case of a Hindu Undivided family, by the Manager or *Karta* ;
- (c) in the case of a company or local authority, by the principal officer ;
- (d) in the case of a firm by a partner ; and
- (e) in the case of any other association, by a member of the association.]

## **Form I.**

### *Form of appeal against an order under Section 46 (1).*

To

The Appellate Assistant Commissioner.

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
The petition of \_\_\_\_\_ of \_\_\_\_\_ post office,  
\_\_\_\_\_ District sheweth as follows :—

1. Under sub-section (1) of Section 46 of the Indian Income-tax Act, 1922 a (further) penalty of Rs. \_\_\_\_\_, has been imposed on your petitioner. The notice of demand attached hereto was served on him on \_\_\_\_\_

2. As will be seen from the grounds of appeal your petitioner had no intention to default.

3. The tax due in respect of the assessment for the assessment year \_\_\_\_\_ has already been paid.

4. Your petitioner therefore requests that the order of the Income-tax Officer imposing a penalty of Rs. \_\_\_\_\_ upon your petitioner may be set aside.

*Signed.\*\**

# **GROUND S OF APPEAL**

## *Form of Verification.*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief.

*Signed.\*\**

\*\*[N. B. :—The form of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual by the individual himself ;
- (b) in the case of a Hindu Undivided family by the Manager or *Karta*,
- (c) in the case of a company or local authority by the principal officer,
- (d) in the case of a firm, by a partner, and
- (e) in the case of any other association, by a member of the association],

**Form J.**

*Form of appeal against an order refusing to grant a refund  
under Section 48, 49, or 49-F.*

To

The Appellate Assistant Commissioner of  
The day of 19 .  
The petition of of post office,  
District sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund of Rs.—under Sections 48, 49 or 49-F of the Indian Income-tax Act and the Income-tax Officer has under Section 48, 49 or 49-F of the Indian Income-tax Act 1922. The Income-tax Officer has by his order dated the of which a copy is attached rejected the application Intimation of this order was granted a refund of only Rs. received by your petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted

*Signed.\*\**

**GROUND OF APPEAL.***Form of Verification.*

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief.

*Signed.\*\**

\*\*[N. B. :—The form of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual by the individual himself ;
- (b) in the case of a Hindu Undivided family by the Manager or *Karta*,
- (c) in the case of a company or local authority by the principal officer,
- (d) in the case of a firm, by a partner ; and
- (e) in the case of any other association, by a member of the association.]

**21-A.** The forms of appeal prescribed by rules 21 and 40-B and by the notifications of the Government of India in the Finance Department (Central Revenues), No. 14-Income-tax, dated the 2nd April 1932, No. 21-Income-tax, dated the 5th June 1937, No. 69-Income-tax, dated the 16th September 1939 and No. 1-Income-tax, dated the 4th January 1941 and the forms of verification appended thereto shall be signed—

- (a) in the case of an individual, by the individual himself ;
- (b) in the case of a Hindu undivided family, by the Manager or *Karta* ;
- (c) in the case of a company or local authority, by the principal officer ;
- (d) in the case of a firm by a partner ; and
- (e) in the case of any other association, by a member of the association.

22, [ *For Rule 22 See infra* ]

22-A. [ *For Rule 22-A See infra* ]

23.\* (1) In the case of income which is partially agricultural income as defined in Section 2 and partially income chargeable to income-tax under the head "Business", in determining that part which is chargeable to income-tax the market value of any agricultural produce which has been raised by the assessee or received by him as rent in kind and which has been utilized as raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent in kind.

(2) For the purposes of sub-rule (1) "market value" shall be deemed to be :—

(a) Where agricultural produce is originally sold in the market in its raw state, or after application to it of any process ordinarily employed by a cultivator or receiver of rent in kind to render it fit to be taken to market, the value calculated according to the average price at which it has been so sold during the year previous to that in which the assessment is made.

(b) Where agricultural produce is not ordinarily sold in the market in its raw state, the aggregate of—

(1) the expenses of cultivation ;

(2) the land revenue or rent paid for the area in which it was grown ; and

(3) such amount as the Income-tax Officer finds, having regard to all the circumstances in each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce.

24. Income derived from the sale of tea grown and manufactured by the seller in British India shall be computed as if it were income derived from business, and 40 per cent. of such income shall be deemed to be income, profits and gains liable to tax :

Provided that in computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, unless such area has previous'y been abandoned.

25 to 32. [Omitted by Notification No. 20 of 1939].

33. In any case in which the Income-tax Officer is of opinion that the actual amount of the income, profits or gains accruing or arising to any person residing out of British India whether directly or indirectly through or from any business connection in British India [or through or from any property in British India, or through or from any money lent at interest and brought into British India in cash or in kind] † cannot be ascertained, the amount of such income, profits or gains for the purposes of assessment to income-tax may be calculated on such percentage of the turnover so accruing

\* Redrafted by Notification No. 35 of 1939.

Words in brackets inserted by Notification No. 36 of 1939.

or arising as the Income-tax Officer may consider to be reasonable or on an amount which bears the same proportion to the total profits of the business of such person (such profits being computed in accordance with the provisions of the Indian Income-tax Act) as the receipts so accruing or arising bear to the total receipts of the business, or in such manner as the Income-tax Officer may deem suitable.

34. The profits derived from any business carried on in the manner referred to in Section 42 (2) of the Act may be determined for the purposes of assessment to income-tax according to the preceding rule.

35. [Omitted by Notification No. 20 of 1939].

36.† In the case of a person residing in British India, application for a refund of tax under Section 48 of the Act shall be made in the following form :—

*Application for refund of income-tax super-tax.*

I, .....of.....do hereby declare that my total income computed in accordance with the provisions of the Indian Income-tax Act, XI of 1922, during the year ending on.....being the previous year for the assessment for the year ending on the 31st March 19 , amounted to Rs.....that the total income-tax and super-tax chargeable in respect of such total income is Rs.....and that the total amount of income-tax and super-tax paid, or treated as paid under sub-section (5) of Section 18, is Rs.....

I, therefore, pray for a refund of Rs.....

Signature.

I hereby declare that I am \* resident and ordinarily resident  
resident but not ordinarily resident  
in British India, and that what is stated in this application is correct.

Dated.....19 .

\* Delete whichever description is inappropriate.

Signature.

36-A.—(a) In the case of a person not resident in British India an application for a refund of tax under Section 48 of the Act shall be made in the following form :—

*Application for refund of income-tax/super-tax.*

I.....of.....residing at.....in.....(country)  
do hereby state that my total income and total world income computed in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), during the year ending on the 31st March 19 , amounted to Rs.....and Rs.....respectively ; that the total income-tax and super-tax chargeable in respect of such total income is Rs.....and that the total amount of income-tax and super-tax paid, or treated as paid under sub-section (5) of Section 18, is

† Rs. 86A & 87 redrafted by Ibi



I therefore pray for a refund of Rs.....

Signature.

I hereby declare that I am a British subject (see note 2)/subject of ..... State being a State in India or Burma (See note 3). I also declare that what is stated in this application is correct.

Dated....., 19 ,

Signature.

Sworn before me (Name).

Designation

Signature

at

on

Seal.

NOTE 1.—The above declaration shall be sworn (a) before a Justice of the Peace, a Notary Public or Commissioner of Oaths if the applicant for refund resides in any part of His Majesty's Dominions outside British India, (b) before a Magistrate or other official of the State or a Political Officer if he resides in a State in India, (c) before a British Council if he resides elsewhere.

NOTE 2.—“British subject” means a person who is a natural born British subject, or a person to whom a certificate of naturalization has been granted.

NOTE 3.—If the applicant is neither a British subject nor a subject of a State in India or in Burma he should delete the first sentence in the above verification.

(b) An application for such a refund from a person not resident in British India who has made similar application as a non-resident in the preceding year shall, unless the Income-tax Officer directs in any particular case that the application be made in the form prescribed in sub-rule (a), be made in the following form :—

*Application for refund of income-tax/super-tax.*

I,.....of.....residing at.....in..... (country) do hereby state that my total income and total world income computed in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), during the year ending on.....being the previous year of the assessment for the year ending on the 31st March 19 , amount to Rs..... and Rs.....respectively; that the total income-tax and super-tax chargeable in respect of such total income is Rs..... and that the total amount of income-tax and super tax paid or treated as paid under sub-section (5) of Section 18 is Rs.....

I therefore pray for a refund of Rs....

Signature.

I hereby declare that I am a British subject (see note 1) /subject of.....State being a State in India or Burma (see note 2). I also declare that what is stated in this application is correct and that I duly applied for a similar refund as a non-resident last year.

Dated....., 19 ,

Signature.

NOTE 1.—“British subject” means a person who is a natural-born British subject, or a person to whom a certificate of naturalization has been granted.

NOTE 2.—If the applicant is neither a British subject nor a subject of a State in India or in Burma he should delete the first sentence in the above verification.

37. The application under Rule 36 shall be accompanied by a return of total income and under Rule 36-A by a return of total income and total world income in the form prescribed under Section 22 unless the applicant has already made such a return to the Income-tax Officer.

37-A. [*Omitted by Notification No. 36 of 1939*].

38\*. Where any part of the total income of a person making an application under Section 48 for refund of income-tax or super-tax (or both) consists of dividends from companies, or income from which income-tax or super-tax (or both) has been deducted under the provisions of Section 18, the application shall be accompanied by the certificates prescribed under Section 18 (9) or under Section 20 as the case may be.

39. The application under Rule 36 or Rule 36-A shall be made as follows :—

(a) If the applicant is resident in British India, to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the district in which he ordinarily resides ;

(b) If the applicant is resident outside British India, to the Income-tax Officer appointed by the Central Board of Revenue.

39-A. [*Omitted by Notification No 36 of 1939* ]

40\*. An application for refund of income-tax under Section 49 of the Act shall be made in the following form :—

*Application for relief from double income-tax under Section 49 of the Indian Income-tax Act, 1922.*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid (or under the provisions of Section 49-B of the Act must be deemed to have paid) United Kingdom income-tax and super-tax amounting to £ \_\_\_\_\_ for the year ending 19 \_\_\_\_\_, on an income of £ \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs. \_\_\_\_\_ has also been paid (or under the provisions of Section 49 B of the Act must be deemed to have been paid) on the same income | income from the same source amounting to Rs. \_\_\_\_\_ I have obtained relief under the provisions of Section 27 of the Finance Act, 1920, at the rate of \_\_\_\_\_ in accordance with the attached certificate from His Majesty's Inspector of Taxes.

I now pray for a further relief at the rate of \_\_\_\_\_ amounting to Rs. \_\_\_\_\_ under Section 49 of the Indian Income-tax

\* Redrafted by Notification No. 36 of 1939.

Act, 1922, to which I am entitled. My income from all sources to which this Act applies during the "previous year" ending on the 19 , amounted to Rs. only—see Return of income attached | already submitted.

Signature.

I hereby declare that what is stated herein is correct.

Signature.

Dated.....19 .

40-A†. An application for refund of income-tax under the India and Burma (Income-tax Relief) Order, 1936, shall be made in the following form :—

*Application for relief from double/triple income-tax under the India and Burma (Income-tax Relief) Order, 1936.*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid Burma Income-tax/income-tax and super-tax amounting to Rs. \_\_\_\_\_ Burma Income-tax/income-tax and super-tax and United Kingdom income-tax/income-tax and super-tax amounting to Rs. \_\_\_\_\_ and £ \_\_\_\_\_ respectively for the year ending 31 \_\_\_\_\_ ended \_\_\_\_\_ Rs.

March 19 \_\_\_\_\_ on an income<sup>2</sup> of \_\_\_\_\_ Rs and £ \_\_\_\_\_ respectively and that Indian income-tax/income-tax and super-tax of Rs. \_\_\_\_\_ has also been paid on the same income/part of the same income amounting to Rs. \_\_\_\_\_. I am therefore entitled to relief under the provisions of the India and Burma (Income-tax Relief) Order, 1936 at the rate of \_\_\_\_\_.<sup>1</sup> (I have obtained relief under provisions of Section 27 of the Finance Act, 1920 at the rate of \_\_\_\_\_ in accordance with the attached certificate from His Majesty's Inspector of Taxes).

I now pray for relief amounting to Rs. \_\_\_\_\_ under the India and Burma (Income-tax Relief) Order, 1936. My income from all sources to which the Indian Income-tax Act, 1922, applies during the previous year ending on the 19 , amounted to Rs. \_\_\_\_\_ only—See return of income attached/already submitted. I attach the official receipt of the Burma income-tax paid and the notice of assessment, showing the basis on which the liability has been computed<sup>3</sup> (as also copies of the appellate order of the Assistant Commissioner and or the Order on revision by the Commissioner).

Signature.

\* Rr. 40-A & 40-B redrafted by Notification No. 37 of 1939.

(1) For claimants for the relief from triple income-tax only.

(2) Where the income on which income tax has been charged differ from that on which super-tax has been charged both amounts must be specified.

(3) In cases in which no appeal to the Assistant Commissioner or petition to revise the assessment to the Commissioner has been made these words or the appropriate part thereof may be struck off.

I hereby declare that what is stated herein is correct. I further declare that as regards my Burma assessment, I have no intention to appeal to the Assistant Commissioner or to approach the Commissioner to revise it.

Signature.

Dated.....19 .

40-B. An appeal under the India and Burma (Income-tax Relief) Order, 1936, shall be in the following form :—

*Form of appeal against an order refusing to grant a refund under the India and Burma (Income-tax Relief) Order, 1936.*

To

The Appellate Assistant Commissioner of  
The                      day of                      19 .  
The petition of                      of                      post office,  
District sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the India and Burma (Income-tax Relief) Order, 1936, of Rs.                      . The Income-tax Officer has by his order dated the                      of which a copy is attached rejected the application/granted a refund of only Rs.                      .  
Intimation of this order was received by your petitioner on                      .

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

Signed.

#### GROUND OF APPEAL.

##### *Form of Verification*

I,                      , the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

Signed.

[N. B. :—The form of appeal and the form of verification appended thereto shall be signed.

- (a) in the case of an individual, by the individual himself ;
- (b) in the case of a Hindu Undivided family, by the Manager or *Karta* ;
- (c) in the case of a company or local authority, by the principal officer ;
- (d) in the case of a firm, by a partner ; and
- (e) in the case of any other association, by a member of the association.]

41.\* The application under Rules 36, 36-A or Rule 40 may be presented by the applicant in person or through a duly authorized agent or may be sent by post.

In case an appeal and a revision petition have been made or only an appeal has been made, these words or the appropriate part thereof may be struck off.

\* Redrafted by Notification No. 86 of 1989.

\* New certificate, substituted by Notification No. 35 of 1939.

**43-A.** The return under Section 20-A shall be in the following form and shall be delivered to the Income-tax Officer in whose jurisdiction the person responsible for paying interest resides:—

*Return under Section 20-A of the Indian Income-tax Act, 1922,  
for the year 1st April 19... to 31st March 19.....*

Name of payer.

Address of payer.

Serial No.	Name of payee.	Address of payee.	Date of payment.	Amount of interest or aggregate interest.
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I hereby certify that the above statement contains a complete list of persons to whom interest or aggregate interest exceeding Rs. 400† was paid during the period 1st April 19 to 31st March 19 .

Signature.

Dated.....19 .

**44 \*** The following bodies are recognised by the Central Board of Revenue as associations of accountants for the purposes of clause (iii) of sub section (2) of Section 61 of the Indian Income-tax Act, 1922 :—

1. The Institute of Chartered Accountants in England and Wales ;
2. The Society of Accountants in Edinburgh ;
3. The Institute of Accountants and Actuaries in Glasgow ;
4. The Society of Accountants in Aberdeen ;
5. The Institute of Chartered Accountants in Ireland ;
6. The Society of Incorporated Accountants and Auditors, London.

**45.** The following accountancy examinations are recognised by the Central Board of Revenue for the purpose of sub-clause (b) of clause (iv) of sub-section (2) of Section 61 of the Indian Income-tax Act, 1922 :—

1. Government Diploma in accountancy examination conducted by the Accountancy Diploma Board, Bombay ;
2. Diploma in Commerce issued under the authority of the Provincial Governments in Madras, Bengal, Punjab and Delhi ;
3. The First Examination conducted by the Central Government under the Auditor's Certificate Rules, 1932.

\* Rs. 44 to 46 added by Notification No. 25 of

1\*4. Examinations conducted by the Association of Certified and Corporate Accountants, London.

46. The following educational qualifications are prescribed by the Central Board of Revenue for the purposes of sub-section (c) of clause (iv) of sub-section (2) of Section 61 of the Indian Income-tax Act, 1922 :—

A degree in Commerce, Law, Economics or Banking including Higher Auditing conferred by any of the following Universities :—

I. *Indian Universities*.—Any Indian University incorporated by any law for the time being in force.

II. Rangoon University.

III. *English and Welsh Universities*.—The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales.

IV. *Scottish Universities*.—The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews.

V. *Irish Universities*.—The Universities of Dublin (Trinity College) and the Queen's University, Belfast.

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### **THE INCOME-TAX (PROVIDENT FUNDS RELIEF) RULES.**

*Notification No 9, dated the 15th March, 1930.*

In exercise of the powers conferred by Chapter IX-A of the Indian Income-tax Act, 1922 (XI of 1922), the Governor-General in Council is pleased to make the following rules, the same having been previously published as required by sub-section (1) of Section 58-L read with sub-section (4) of Section 59 of the said Act :—

1 (i) These rules may be called the Indian Income-tax (Provident Funds Relief) Rules.

(ii) They extend to the whole of British India including Berar and every reference therein to British India shall be construed as including a reference to Berar.

2. In these rules, "section" means a section of the Indian Income tax Act, 1922 (XI of 1922).

3. (1) Where the employer is not a company as defined in clause (2) of Section 2 of the Indian Companies Act, 1913, the contributions made by employees after the date of recognition of a Provident Fund and the interest on the accumulated balance of such contributions shall be wholly invested either in securities of the nature specified in clause (a) (b); (c), (d) or (e) of Section 20 of the Indian Trusts Act, 1882, or in clause (a), (b), (c), (d) or (e) of Section 20 of the (Burma) Trust Act, and payable both in respect of capital and of interest in British India or in British Burma or in a Post Office Savings Bank Account in British India.

(2) Where the employer is a company as defined in clause (2) of Section 2 of the Indian Companies Act, 1913, all moneys contributed to a Provident Fund (whether by the Company or by the employees) or accruing by way of interest or otherwise to such

\* Added by Notification No. 66 of 1939,



fund shall be wholly invested in accordance with the provisions of sub-section (2) of Section 282-B of the Indian Companies Act, 1913, so however that the securities in which the contributions made by employees after the date of recognition of a Provident Fund and the interest on the accumulated balance of such contributions are invested are payable both in respect of capital and of interest in British India.

4. (1) Withdrawals by employees shall not be allowed by the trustees except on special grounds in the following circumstances or circumstances of a similar nature :—

(a) to pay expenses incurred in connection with the illness of a subscriber or a member of his family ;

(b) to pay for the passage over the sea of a subscriber or any member of his family ;

(c) to pay expenses in connection with marriages, funerals or ceremonies which by the religion of the subscriber it is incumbent upon him to perform and in connection with which it is obligatory that expenditure should be incurred ;

(d) to meet the expenditure on building or purchasing a house or a site for a house provided that such house or site is assigned to the trustees of the fund :

Provided, however, that at the discretion of the trustees of the fund the condition of such house or site being assigned to the trustees of the fund may be waived in the case of an employee whose income under the head " salaries " does not exceed Rs. 1,500 per annum.

(e) to pay premia on policies of insurance on the life of the subscriber or of his wife provided that the policy is assigned to the trustees of the fund or at their discretion deposited with them and that the receipts granted by the insurance company for the premia are from time to time handed over to the trustees for inspection by the Income-tax Officer.

(2) For the purpose of sub-rule (1) " Family " means any of the following persons who reside with and are wholly dependent on the employee, namely :—the employee's wife, legitimate children, step-children, parents, sisters and minor brothers.

(3) (a) No such withdrawal shall exceed (1) the pay of the employee for three months, or, in the case of a withdrawal for the purpose specified in clause (d) or clause (e) of sub-rule (1) six months at the time when the advance is granted, or (2) the total of the accumulation of exempted contributions and exempted interest contained in the balance to the credit of the employee whichever is less.

(b) In the case of withdrawal for the purpose specified in clause (e) of sub-rule (1) the restriction imposed by clause (a) of sub-rule (3) shall apply to each withdrawal and not to total withdrawals.

(c) In the case of withdrawal by an employee falling within the proviso to clause (b) of sub-section (1) of Section 58-C the ' pay ' referred to in clause (a) of sub-rule (3) shall mean the pay

(including increments, if any) which the employee would have received had he not entered His Majesty's Forces or been taken into or employed in the national service.

(4) (a) Save as in clauses (b), (c), (d) and (e) a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid ;

(b) A withdrawal may be permitted for the purpose specified in clause (e) of sub-rule (1) notwithstanding that the sum withdrawn for any other purposes has not been repaid ;

(c) Subsequent withdrawals for the purpose specified in clause (e) of sub-rule (1) may be permitted notwithstanding that the sums previously withdrawn for the same purpose have not been repaid ;

(d) A withdrawal for any one of the purposes of sub-rule (1) other than that specified in clause (e) of that sub-rule may be permitted notwithstanding that the sums withdrawn for the purpose of clause (e) of the same sub-rule have not been repaid ;

(e) A withdrawal for any one of the purposes of sub-rule (1) other than those specified in clauses (d) and (e) of the sub-rule shall be permitted notwithstanding that the sum withdrawn for the purpose of clause (d) of the same sub-rule has not been repaid.

5. (1) Where a withdrawal is allowed for a purpose specified in clause (d) or clause (e) of sub-rule (1) of rule 4 the amount withdrawn need not be repaid.

(2) Where a withdrawal is allowed for any other purpose the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments and shall bear interest in accordance with rule 6 and subject to the provisions of sub-rule (4) of rule 4 no further withdrawal shall be permitted until repayment has been effected in full.

6. In respect of withdrawals which are repaid in not more than 12 monthly instalments, an additional instalment of 4 per cent. of the amount withdrawn shall be paid on account of interest ; and in respect of withdrawals which are repaid in more than 12 monthly instalments two such instalments of 4 per cent. of the amount withdrawn shall be paid on account of interest :

Provided, however, that at the discretion of the Trustees of the Fund, interest may be recovered on the amount withdrawn or the balance thereof outstanding from time to time at 1 per cent. above the rate which is payable for the time being on the balance in the fund at the credit of the member.

7. The employer shall deduct such instalments from the employee's salary, and pay them to the Trustees. The deductions shall commence from the second monthly payment made after the withdrawal or in the case of an employee on leave without pay from the second monthly payment made after his return to duty.

8. In case of default of repayment of instalments under rules 6 and 7, the Commissioner of Income-tax may at his discretion order that the amount of the withdrawal or the amount out-

standing shall be added to the total income of the employee for the year in which the default occurs and the Income-tax Officer shall assess the employee accordingly.

9. Notwithstanding anything contained in rules 4 to 8, it shall be open to the trustees of a recognised provident fund to permit the withdrawal of ninety per cent. of the amount standing at the credit of an employee if the employee takes leave preparatory to retirement, provided that if he rejoins duty on the expiry of his leave he shall refund the amount drawn together with interest at the rate allowed by the fund.

9 A. Where the accounts of a recognised provident fund are kept outside British India, certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in British India ;

Provided that the Income tax Officer may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied.

10. (1) An application for recognition shall be made by the employer maintaining the fund for which recognition is sought and shall be accompanied by the following documents :—

- (a) the trust deed if any in original with one copy thereof, the latter to be retained by the Commissioner, and
- (b) the rules of the fund.

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the Commissioner of Income-tax to accept in lieu of the original a copy certified either by a Magistrate or in any manner specified in rule 7 of the Indian Companies Rules, 1914, in which case an additional copy shall be furnished for retention by the Commissioner.

(2) The application shall be submitted through the Income-tax Officer of the area in which the accounts of the fund are kept or if the accounts are kept outside India, through the Income-tax Officer of the area in which the local headquarters of the employer are situate.

(3) The application shall contain the following information :—

(a) Name of employer and address, his business, profession, etc., also his principal place of business.

(b) Number of employees subscribing to the fund—

- (i) in British India ;
- (ii) in Indian States ;
- (iii) outside India.

(c) Place where the accounts of the fund are or will be maintained.

(d) If the fund is already in existence—

(i) a copy of the last balance sheet of the fund, where such is maintained.

(ii) details of investments of the fund.

(4) A verification in the following form shall be annexed to the application :—

**FORM OF VERIFICATION.**

We/I, the trustee (s) of the above-named fund, do declare that what is stated in the above application is true to the best of our information and belief, and the documents sent herewith are the originals or true copies thereof.

11. Where an employee of a company owns shares in the company with a voting power exceeding ten per cent. of the whole of such power the sum of the exempted contributions of the employee and employer to the recognised provident fund maintained by the company shall not exceed Rs. 250 in any month

12. If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the Income-tax Officer shall, on the fact of the assignment or charge coming to his knowledge give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice the consideration received for such assignment or charge shall be deemed to be income received by him in the year in which the fact became known to the Income-tax Officer and shall be assessed accordingly.

13. If the Commissioner withdraws recognition from a recognised provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall be paid to him free of income-tax and super-tax at the time when such employee receives the accumulated balance due to him. The remainder of the accumulated balance due to him shall be liable to income-tax and super-tax as if the fund had never been recognised.

14. Before withdrawing recognition, the Commissioner of Income-tax shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn.

15 (1). For the purpose of clause (a) of section 58-D the employer's aggregate contribution in any year, including the normal contribution, to the individual account of any one employee whose salary does not exceed five hundred rupees per mensem shall not exceed double the amount of the contribution of the employee in that year.

(2) The amount of the periodical bonuses and other contributions of a contingent nature which may be credited by an employer in any year under clause (b) of section 58-D to the individual account of any one employee shall not exceed the amount of the contribution of the employee in that year.



shall be in the form prescribed in rule 6, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof.

[Similar abstract shall also be furnished in respect of other employees participating in a recognised provident fund who were allowed withdrawals under Rule 4 of the Indian Income-tax (Provident Funds Relief) Rules or who come within the purview of rule 11 of these Rules.)\*

8. The account to be made under the provisions of sub-section (1) of section 58-J shall show in respect of each employee (i) the total salary paid to the employee during the period of his participation in the Provident fund, (ii) the total contributions, (iii) the total interest which has accrued thereon, and (iv) so far as may be, the percentage of the employee's salary in accordance with which contributions have been made by the employer and employee

## INCOME TAX (DOUBLE TAXATION RELIEF) (INDIAN STATES) RULES, 1939.

*Notification No. 69 of 1939.*

In exercise of the powers conferred by Section 49-A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in British India and in certain Indian States, namely :—

1. These rules may be cited as the INCOME-TAX (DOUBLE TAXATION RELIEF) (INDIAN STATES) RULES, 1939.

2. In these rules,—

(a) the expressions “Indian Income-tax” and “Indian rate of tax” have the same meanings as in clauses (a) and (b) respectively of sub-section (2) of section 49 of the Indian Income-tax Act, 1922 ;

(b) “State” means any of the Indian States specified in the Schedule to these Rules ;

(c) the expression “State income-tax” means income-tax and super-tax charged in accordance with the provisions of the law relating to income-tax for the time being in force in the State ; and

(d) the expression “State rate of tax” means the amount of State income-tax divided by the amount of the larger of the two incomes on which income-tax and super-tax respectively have been charged by the State.

3. If any person who has paid by deduction under Section 18 of the Indian Income-tax Act, 1922, or otherwise, Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has at any time paid by deduc-

\*Words within brackets inserted by Notification No. 57 of 1939.

In the case of the persons specified in the 2nd coloum of the following statement, the application for relief shall be made to the Income-tax Officer specified in the corresponding entry in the 3rd coloum thereof:

Serial No.	persons.	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made.
1	Persons (excluding those who fall under serial No. 5) not resident in British India whose total income is made up of income wholly taxed at source or dividends or both.	Income-tax Officer Non-Residents Refund Circle, Bombay.
2	Persons (excluding those who fall under serial No. 5) not resident in British India not assessed through statutory agents under Section 43 any part of whose income is derived from horse racing.	Income-tax Officer, Poona.
3	Persons not resident in British India assessed through statutory agents under Section 43 of the Indian Income-tax Act, 1922, whether their income arises in a single province or in more than one province.	Income-tax Officer of the District in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under Section 42, or where he resides as the case may be.
4	Persons (excluding those who fall under serial No. 5) not resident in British India who do not fall under serial No. 1 and 2 and not assessed through statutory agents under Section 43 with any income for direct assessment (e.g., house property, interest, etc).	The Income-tax Officer of the circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment, whichever year is later ; provided that the same officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within jurisdiction.
5	Defence Services employees under the audit control of the Field Controller of Military Accounts, Poona, other than those working in the office of the Field Controller himself or in the accounts offices of the different units in India under the audit control.	Income-tax Officer attached to the Adjutant General's Branch, General Headquarters, India and stationed at Poona.



Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939, of Rs. . The Income-tax Officer has by his order, dated the of which a copy is attached rejected the application granted a refund of only Rs. Intimation of this order was received by your petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

Signed\*

#### GROUND OF APPEAL.

##### *Form of verification.*

I, , the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

Signed\*

### INCOME TAX (DOUBLE TAXATION RELIEF) (DOMINIONS) RULES, 1940.

*Notification No. 1 dated the 4th January 1941.*

In exercise of the powers conferred by Section 49-A of the Indian Income-tax Act, 1922 (XI of 1922), and in supersession of the Notification of the Government of India in the Finance Department (Central Revenues), No. 67 Income-tax, dated the 19th August 1939, the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in British India and in certain of His Majesty's Dominions, namely :—

1. These rules may be called the Income-tax (Double Taxation Relief) (Dominions) Rules, 1940.

2. In these rules,—

(a) “Dominion” means any of the territories specified in the first column of the Schedule annexed to these rules ;

(b) “Dominion Income-tax” means tax charged for any year in accordance with the provisions of the Dominion enactment specified in the second column of the said Schedule ;

(c) “Dominion rate of tax” has the meaning assigned to it in the section of the respective dominion enactment specified in the third column of the said Schedule ;

(d) the expressions “Indian Income-tax” and “Indian rate of tax” have the same meaning as in clauses (a) and (b) respectively of sub-section (2) of Section 49 of the Indian Income-tax Act, 1922 (XI of 1922).

\*. The form of appeal and the form of verification appended thereto shall be signed.—

(a) in the case of an individual, by the individual himself ;

(b) in the case of a Hindu undivided family, by the Manager or *karta* ;

(c) in the case of a company or local authority, by the principal officer ;

(d) in the case of a firm, by a partner ; and

(e) in the case of any other association by a member of the association.

3. If any person who has paid by deduction under Section 18 of the Indian Income-tax Act, 1922 or otherwise Indian Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise dominion income-tax for that year in respect of the same part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate to be determined as follows :

(i) If he is resident in British India the rate at which refund is to be given shall be—

(a) the dominion rate of tax, when that rate does not exceed half of the Indian rate of tax, and

(b) half the Indian rate of tax, in any other case.

(ii) If he is not resident in British India the rate at which refund is to be given shall be—

(a) half of the dominion rate of tax when that rate does not exceed the Indian rate of tax, and

(b) In any other case, the amount by which the Indian rate of tax exceeds half of the dominion rate of tax ;

Provided, that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief or be greater than the excess of the lower of the Indian and the dominion rate of tax over the rate at which relief is given in the dominion.

4. (1) The application for refund of income-tax under these rules shall be made as follows :—

(i) If the applicant is resident in British India, to the Income-tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides ;

(ii) If the applicant is resident outside British India, to the Income-tax Officer appointed by the Central Board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall as far as circumstances permit be in Form I appended to these rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India :

Provided, that where the claim is to a refund of income-tax or super-tax paid prior to the 1st April, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which such tax or the dominion income-tax was recovered whichever is later.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order

of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall, as far as circumstances permit, be in Form II appended to these rules.

**FORM I.**

**(See rule 4.)**

*Application\* for relief from double income-tax under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1940.*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid [or under the provisions of Section 49-B of the Indian Income-tax Act, 1922 (XI of 1922) must be deemed to have paid] (name of dominion) income-tax amounting to £ \_\_\_\_\_ of the year ending 19 \_\_\_\_\_ on an income of £ \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs. \_\_\_\_\_ has also been paid [or under the provisions of Section 49-B of the Indian Income-tax Act, 1922 (XI of 1922) must be deemed to have been paid] on the same income\*/part of the same income amounting to Rs. \_\_\_\_\_ I now pray for relief at the rate of \_\_\_\_\_ amounting to Rs. \_\_\_\_\_ to which I am entitled under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1940. My income from all sources during the previous year ending on the 19 \_\_\_\_\_, amounted to Rs. \_\_\_\_\_ only—see Return of income attached already submitted.

Signature.

I hereby declare that what is stated herein is correct.

Dated \_\_\_\_\_

Signature,

**FORM II.**

**(See rule 7.)**

*Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Dominions) Rules 1940.*

**To**

The Appellate Assistant Commissioner of Income-tax.

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

The petition of \_\_\_\_\_ of \_\_\_\_\_ post office,

District sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1940, of Rs. \_\_\_\_\_. The Income-tax Officer has by his order, dated the \_\_\_\_\_, of which a copy is attached, rejected the application granted a refund of only Rs. \_\_\_\_\_. Intimation of this order was received by your petitioner on \_\_\_\_\_

\*Where the income on which income-tax has been charged differs from that on which super-tax has been charged both amounts must be specified.

In the case of the persons specified in the 2nd column of the following statement, the application for relief shall be made to the Income-tax Officer specified in the corresponding entry in the 3rd column thereof :

Serial No.	Persons.	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made.
1	2	3
1.	Persons (excluding those who fall under serial No. 5) not resident in British India whose total income is made up of income wholly taxed at source or dividends or both.	Income-tax Residents Bombay. Officer, Refund Non-Circle,
2.	Persons (excluding those who fall under Serial No. 5) not resident in British India and not assessed through statutory agents under Section 43 any part of whose income is derived from horse racing.	Income-tax Officer, Poona.
3.	Persons not resident in British India assessed through statutory agents under Section 43 of the Indian Income-tax Act, 1922 whether their income arises in a single province or in more than one province.	Income-tax Officer of the District in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under Section 42, or where he resides as the case may be.
4.	Persons (excluding those who fall under serial No. 5) not resident in British India who do not fall under serial Nos. 1 and 2 and not assessed through statutory agents under Section 43 with any income for direct assessment ( <i>e g.</i> , house property, interest, etc )	The Income-tax Officer of the circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment, whichever year is later ; provided that the same officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction. Income-tax officer attached to the Adjutant General's Branch General Headquarters, India and stationed at Poona.
5.	Defence Services employees under the audit control of the Field Controller of Military Accounts, Poona, other than those working in the office of the Field Controller himself or in the accounts offices of the different units in India under his audit control.	

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

Signed.\*

#### GROUND OFS OF APPEAL.

##### *Form of verification*

I, \_\_\_\_\_, the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

Signed.\*

#### SCHEDULE.

1	2	3
Kanya ...	Income-Tax Ordinance 1937 (XII of 1937) of the Colony and Protectorate of Kenya.	Section 44.
Tanganyika ...	War Revenue (Income Tax) Replacement) Ordinance 1940 of Tanganyika territory.	Section 32 (3).
Uganda ...	Income Tax Ordinance 1940 of Uganda Protectorate.	Section 32 (3).
Zanzibar ...	Income Tax Decree, 1944 of Zanzibar Protectorate.	Section 32 (3).

#### INCOME-TAX (DOUBLE TAXATION RELIEF) (KENYA) RULES.

In exercise of the powers conferred by Section 49-A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in British India and in Kenya, namely:—

1. These rules may be cited as the Income-tax (Double Taxation Relief) (Kenya) Rules 1939.

2. In these rules,—

(a) the expression 'Kenya income-tax' means tax charged for any year in accordance with the provisions of the Income-tax Ordinance, 1937 (XII of 1937) of the Colony and Protectorate of Kenya,

(b) the expression 'Kenya rate of tax' has the meaning assigned to it in sub-section (3) of Section 44 of the said Ordinance,

(c) the expressions 'Indian Income-tax' and 'Indian rate of tax' have the same meaning as in clauses (a) and

\*\* The form of appeal and the form of verification appended thereto shall be signed—

(a) in the case of an individual by the individual himself;

(b) in the case of a Hindu undivided family, by the Manager or Karta;

(c) in the case of a Company or local authority, by the principal Officer;

(d) in the case of a firm by a partner; and

(e) in the case of any other association, by a member of the association.

(b), respectively of sub-section (2) of Section 49 of the Indian Income-tax Act, 1922.

3. If any person who has paid by deduction under Section 18 of the Indian Income-tax Act, 1922 or otherwise Indian Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise Kenya income-tax for that year in respect of the same part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate to be determined as follows :—

(i) If he is resident in British India the rate at which refund is to be given shall be—

(a) the Kenya rate of tax, when that rate does not exceed half of the Indian rate of tax, and

(b) half the Indian rate of tax, in any other case.

(ii) If he is not resident in British India the rate at which refund is to be given shall be :—

(a) half of the Kenya rate of tax when that rate does not exceed the Indian rate of tax, and

(b) in any other case, the amount by which the Indian rate of tax exceeds half of the Kenya rate of tax :

Provided that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriated to the income of the person entitled to relief or be greater than the excess of the lower of the Indian and the Kenya rate of tax over the rate at which relief is given in Kenya.

4. (1) Every application for refund of income-tax under these rules shall be made to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax or if he is not chargeable directly to income-tax, to the Income-tax Officer of the District in which the applicant ordinarily resides, or if he is not resident in British India—

(i) to the Income-tax Officer of the district or area in which he was last charged directly to income-tax when so resident, or

(ii) if he has never been so resident, to the Income-tax Officer of the district or area where the income-tax for the refund of which application is made was paid.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall as far as circumstances permit be in Form I appended to these rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India :

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the 1st April, 1939, the claim shall not be allowed unless it is made within one year from the last day of the

year in which such tax or the Kenya income-tax was recovered whichever is later.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall, as far as circumstances permit, be in Form II appended to these rules.

#### FORM I.

(See rule 4.)

*Application for relief from double income-tax under the Income-tax (Double Taxation Relief) (Kenya) Rules, 1939.*

I, \_\_\_\_\_ of \_\_\_\_\_, do hereby state that I have paid or under the provisions of Section 49-B of the Indian Income-tax Act, 1922 (XI of 1922) must be deemed to have paid Kenya income-tax amounting to £ \_\_\_\_\_ for the year ending 19 \_\_\_\_\_ on an income of £ \_\_\_\_\_ and that Indian Income-tax (income-tax and super-tax of Rs. \_\_\_\_\_ has also been paid or under the provisions of Section 49-B of the Indian Income-tax Act, 1922 (XI of 1922) must be deemed to have been paid on the same income\* part of the same income amounting to Rs. \_\_\_\_\_ I now pray for relief at the rate of \_\_\_\_\_ amounting to Rs. \_\_\_\_\_ to which I am entitled under the Income-tax (Double Taxation Relief) (Kenya) Rules, 1939. My income from all sources during the 'previous year' ending on the 19 \_\_\_\_\_, amount to Rs. \_\_\_\_\_ only—See Return of income attached/already submitted.

Signature.

I hereby declare that what is stated herein is correct.

Date \_\_\_\_\_ 19 \_\_\_\_\_.

Signature.

#### FORM II.

(See rule 7.)

*Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Kenya) Rules, 1939.*

To

The Appellate Assistant Commissioner of Income-tax,  
The \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,  
The petition of \_\_\_\_\_ of post office,

District showeth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Kenya) Rules 1939, of Rs. \_\_\_\_\_ The Income-tax Officer has by his order, dated the \_\_\_\_\_

, of which a copy is attached, rejected the application  
granted a refund of only Rs. \_\_\_\_\_

Intimation of this order was received by Your petitioner on \_\_\_\_\_

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

Signed.

\*Where the income on which income-tax has been charged differs from that on which super-tax has been charged both amounts must be specified.



## GROUNDS OF APPEAL.

*Form of verification.*

I, \_\_\_\_\_, the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

Signed.

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**RELIEF FROM MYSORE INCOME-TAX.**

**I. Relief in respect of salaries.**—The Government of India have provided by executive order that their servants who are liable to tax in any Indian State may deduct the amount of the tax paid to the Indian State from the tax which they are liable to pay to the Government of India.

**II. Relief from double income-tax in respect of pensions.**—The Government of India have agreed that the existing arrangement whereby relief from double income-tax is afforded in respect of the salaries of the servants of the Government of India and the Mysore Government should be extended to pensions of retired officials of the Government of India and of the Mysore Government. According to this arrangement which came into effect from 1st July 1924, British pensioners residing in Mysore will pay to the Mysore Government the tax on their income and to the British Indian Government only the difference between the British Income-tax payable on the pensions and the tax levied thereon in Mysore; while Mysore pensioners living in British India will pay tax only to the Government of India and will pay no tax to Mysore Government on their pensions so long as the Mysore rates are lower than those of British India.

**III. Relief from double income-tax in respect of business.**—The Government of India have agreed that in the case of business whose head-quarters are in British India but which have branches in Mysore or carry on business in Mysore, a deduction shall be made from the Indian Income-tax payable on the profits of such business of the amount of Mysore Income-tax that would be payable on such portion of the same profits as appear to the Income-tax Officer in British India to be due to transactions in Mysore. Business with headquarters in Mysore which have branches or dealing in British India should be assessed by the income-tax authorities in British India to the full amount of Indian Income-tax due on the profits in British India only.

**IV. Relief from double income-tax on dividends and professional earnings.**—Relief from double income-tax of incomes taxed both in Mysore and in British India in respect of dividends and income from professions and vocations.

(1) As regards dividends, the Government within whose jurisdiction tax is charged on the profits out of which a dividend is paid, will retain the tax on the part of those profits represented by the dividend and will allow such refund on the dividend as may be due under the provisions of its Income-tax Law, corresponding to Section 48 of the Indian Income-tax Act, while the Government in whose jurisdiction the dividend is received will include it in the total income of the assessee concerned for the purpose of fixing the rate

of and the liability to tax, but will waive its claim to levy tax in respect of the dividend.

(2) As regards income derived from the practice of a profession or vocation, the Government within whose jurisdiction it arises or accrues will tax it, while the Government in whose jurisdiction it is received will include it in the total income of the assessee for the purpose of determining liability to, and the rate of, tax provided that—

- (i) the income earned in Mysore by a resident in British India or in British India by a resident in Mysore shall be charged to tax in British India or Mysore, as the case may be, if it has not already been, or will not be, charged to tax in Mysore or British India ;
- (ii) in cases where such professional earnings have been or will be taxed in Mysore or in British India, they shall be taken into account for the calculation of total income in British India or Mysore whether received in British India or Mysore. The object of proviso (i) is to tax in British India incomes which fall below the taxable limit in Mysore and of proviso (ii) to include in the total income (*i.e.*, to fix the rate of tax) incomes which may be received in Mysore in the first instance and may be brought subsequently into British India and *vice versa*.

### INDIAN INCOME-TAX RELIEF—ADEN.

*Income-tax (Double Taxation Relief) (Aden) Rules 1942.*

*Notification No. 18, dated the 21st February 1942.*

In exercise of the powers conferred by Section 49-A of the Indian Income-tax Act, 1922 (XI of 1922) the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in British India and in Aden, namely :—

1. These rules may be cited as the Income-tax (Double Taxation Relief) (Aden) Rules, 1942.

2. In these rules,—

(a) the expression “Aden Income-tax” means income-tax and super-tax charged for any year, in accordance with the provisions of the Aden Income-tax Ordinance, 1937.

(b) the expression “Aden rate of tax” means the amount of Aden Income-tax divided by the amount of the income on which it was charged ;

(c) the expression “Indian Income-tax” means the income-tax and super-tax chargeable in accordance with the provisions of any law in force in British India ;

(d) the expression “Indian rate of tax” means the rate determined by dividing the amount of income-tax paid in British India for the year in question by the amount of income on which tax was charged ;

(e) the reference to the lower of the two rates shall where the rates are equal, be constructed as a reference to either of the rates.

3. If any person who has paid by deduction under Section 18 of the Indian Income-tax Act, 1922 or otherwise, Indian Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for that year by deduction or otherwise Aden Income-tax in respect of that part of his income, he shall be entitled to the refund of Indian Income-tax calculated on that part of his income at a rate bearing to the Indian rate of tax or the Aden rate of tax, whichever is the lower, the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the Aden rate of tax.

4. (1) The application for refund of income-tax under these rules shall be made as follows :—

- (i) If the applicant is resident in British India, to the Income-tax Officer of the District in which the applicant is chargeable directly to Income-tax Officer of the District in which he ordinarily resides ;
- (ii) If the applicant is resident outside British India, to the Income-tax Officer appointed by the Central Board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in Form I appended to these rules.

5. No claim to any refund of Indian Income-tax or super-tax under these Rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India ;

Provided that where the claim is to a refund of Income-tax or super-tax paid prior to the 1st April, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which such tax or the Aden income-tax was recovered whichever is later.

6. An applicant for refund under these Rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall be in Form II appended to these rules.

#### FORM I

(See rule 4 )

*Application for relief from double income-tax under the Income-tax (Double Taxation Relief) (Aden) Rules 1942.*

of  
do hereby state that I have paid (or under the provisions of Section 49-B of the Indian Income-tax Act, 1922 (XI of 1922) must be

deemed to have paid) Aden income-tax/income-tax and super-tax amounting to Rs.                      for the year ending 19                      , on an \*income of Rs.                      and that Indian income-tax/income-tax and super-tax of Rs.                      has also been paid (or under the provisions of Section 49-B of the Indian Income-tax Act, 1922 (XI of 1922) must be deemed to have been paid) on the same income\*/part of the same income amounting to Rs.                      . I now pray for relief at the rate of                      amounting to Rs.                      to which I am entitled under the income-tax (Double Taxation Relief) (Aden) Rules, 1942. My income from all sources during the "previous year" ending on the                      19                      , amounting to Rs.                      .

only see return of income attached/already submitted.

Signature.

I hereby declare that what is stated herein is correct.

dated

19

Signature.

In the case of the persons specified in the 2nd column of the following statement, the application for relief shall be made to the Income-tax Officer specified in the corresponding entry in the 3rd column thereof !

Serial No.	Persons.	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made.
1.	Persons (excluding those who fall under serial No. 5) not resident in British India whose total income is made up of income wholly taxed at source or dividends or both.	Income-tax Officer, Non-residents Refund Circle, Bombay.
2.	Persons excluding those who fall under Serial No. 5) not resident in British India and not assessed through statutory agents under Section 43 any part of whose income is derived from horse racing.	Income-tax Officer, Poona.
3.	Persons not resident in British India assessed through statutory agents under Section 43 of the Indian Income-tax Act, 1922, whether their income arises in a single province or in more than one province.	Income-tax Officer of the District in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under Section 42 or where he resides as the case may be.

Serial No.	Persons.	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made.
1	2	3
4.	Persons (excluding those who fall under Serial No. 5) not resident in British India who do not fall under Serial Nos. 1 and 2 and not assessed through statutory agents under Section 43 with any income for direct assessment (e.g. house property, interest, etc.).	The Income-tax Officer of the circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment, whichever year is later ; provided that the same officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction.
5.	Defence Services employees under the audit control of the Field Controller of Military Accounts, Poona, other than those working in the office of the Field Controller himself or in the accounts offices of the different units in India under his audit control.	Income-tax Officer attached to the Adjutant General's Branch, General Headquarters, India and stationed at Poona.

## FORM II

(See rule 7.)

*Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Aden) Rules, 1942.*

To

The Appellate Assistant Commissioner of Income-tax

The day of

19

The petition of of

post office

District sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Aden) Rules, 1942, of Rs.

The Income-tax Officer has by his order, dated the of which a copy is attached rejected the application/granted a refund of only Rs. Intimation of this order was received by your petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

Signed.\*\*

\*\*The form of appeal and the form of verification appended thereto shall be signed.

GROUNDS OF APPEAL.

*Form of verification.*

I, \_\_\_\_\_, the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

Signed.\*\*

- (a) in the case of an individual, by the individual himself ;
- (b) in the case of a Hindu undivided family by the Manager or *Karta* ;
- (c) in the case of a company or local authority, by the principal officer ;
- (d) in the case of a firm, by a partner ; and
- (e) in the case of any other association, by a member of the association.

**INCOME-TAX (DOUBLE TAXATION RELIEF) (CEYLON)  
RULES, 1942.**

*Notification No. 17 dated the 21st February, 1942.*

In exercise of the powers conferred by Section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in British India and in Ceylon, namely :—

1. These rules may be cited as the Income-tax (Double Taxation Relief) (Ceylon) Rules, 1942.

2. In these rules,—

(a) the expression “ Ceylon tax ” has the meaning assigned to it in Section 45 (4) (b) of the Ceylon Income-tax Ordinance, 1932 (2 of 1932) ;

(b) the expression “ Indian income-tax ” has the meaning assigned to it in class (a) of sub section (2) of Section 49 of the Indian Income-tax Act, 1922 (XI of 1922).

3. If any person, who has paid by deduction under Section 18 of the Indian Income-tax Act, 1922, or otherwise, Indian income-tax for any year on any part of his income, proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise Ceylon tax for the corresponding year in Ceylon on the same part of his income, he shall be entitled to refund of a sum equal to half the Ceylon tax calculated on that part of his income on which relief is admissible under the Ceylon Income-tax Law, or to half the Indian income-tax on the same part of his income, whichever is less :

Provided that where any person is entitled to a further relief in British India on that part of his income on which relief is admissible under the Ceylon Income-tax Law on account of its having been also taxed in some other country besides Ceylon, the relief in respect of the Ceylon tax shall not exceed the difference between half the Indian income-tax and such further relief as may have been granted in British India owing to that part of his income having been taxed in some other country besides Ceylon;

4. (1) The application for refund of income-tax under these rules shall be made as follows :—

(i) If the applicant is resident in British India, to the Income-tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides ;

(ii) If the applicant is resident outside British India, to the Income-tax Officer appointed by the Central board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in Form I appended to these Rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India :

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the 1st April 1939; the claim shall not be allowed unless it is made within one year from the last day of the year in which such tax or the Ceylon tax was recovered whichever is later.

6. An applicant for refund under these Rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date in which the order of the Income-tax Officer was communicated to the applicant, and shall be in Form II appended to these Rules.

#### FORM I

(See rule 4)

*Application for relief from double income-tax under the Income-tax (Double Taxation Relief) (Ceylon) Rules, 1942.*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid [or under the provision of Section 49B of the Indian Income-tax Act, 1922 (XI of 1922) must be deemed to have paid] Ceylon tax amounting to Rs. \_\_\_\_\_ for the year ending 19\_\_ on an income of Rs. \_\_\_\_\_ and that Indian income-tax income-tax and super-tax of Rs. \_\_\_\_\_ has also been paid [or under the provisions of Section 49B of the Indian Income-tax Act, 1922 (XI of 1922) must be deemed to have been paid] on the same income part of the same income amounting to Rs. \_\_\_\_\_. I now pray for relief of a sum of Rs. \_\_\_\_\_ to which I am entitled under the Income-tax (Double Taxation Relief) (Ceylon) Rules, 1942. My income from all sources during the "previous year" ending on the \_\_\_\_\_ 19\_\_, amounted to Rs. \_\_\_\_\_. only—see Return of income attached already submitted.

Signature.

I hereby declare that what is stated herein is correct.

Signature.

Dated

19\_\_ .

\*Where the income on which income-tax has been charged differs from that on which super tax has been charged both amounts must be specified.



† In the case of the persons specified in the 2nd column of the following statement, the application for relief shall be made to the Income-tax Officer specified in the corresponding entry in the 3rd column thereof :

Serial No.	Persons.	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made.
1	2	3
1 Persons (excluding those who fall under Serial No. 5) not resident in British India whose total income is made up of income wholly taxed at source or dividends or both.		Income-tax Officer, Non-Residents Refund Circle, Bombay.
2 Persons (excluding those who fall under Serial No. 5) not resident in British India and not assessed through statutory agents under Section 43 any part of whose income is derived from horse racing.		Income-tax Officer, Poona.
3 Persons not resident in British India assessed through statutory agents under Section 43 of the Indian Income-tax Act, 1922, whether their income arises in a single province or more than one province.		Income-tax Officer of the District in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under Section 42, or where he resides as the case may be.
4 Persons (excluding those who fall under Serial No. 5) not resident in British India who do not fall under Serial Nos. 1 and 2 not assessed through statutory agents under Section 43 with any income for direct assessment (e.g., house property, interest etc.).		The Income-tax Officer of the Circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment, whichever year is later ; provided that the same officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction.
5. Defence Service employees under the audit control of the Field Controller of Military Accounts Poona, other than those working in the office of the Field Controller himself or in the accounts offices of the different units in India under his audit control.		Income-tax Officer attached to the Adjutant General's Branch, General Headquarters, India and stationed at Poona.

## FORM II

(See rule 7)

*Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Aden) Rules, 1942.*

To

The Appellate Assistant Commissioner of Income-tax

The                      day of                      19 ..

The petition of                      of                      post office

District sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Aden) Rules, 1942, of Rs.                      . The Income-tax Officer has by his order, dated

the                      of which a copy is attached rejected the application/ granted a refund of only Rs.                      . Intimation of this order was received by your petitioner on                      .

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted,

Signed.\*

## GROUNDS OF APPEAL.

*Form of Verification.*

I,                      , the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

Signed.\*

\*\*The form of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual, by the individual himself ;
- (b) in the case of a Hindu undivided family by the Manager of *Karta* ;
- (c) in the case of a company or a local authority, by the principal officer ;
- (d) in the case of a firm, by a partner, and
- (e) in the case of any other association, by a member of the association.

## FORMS OF APPEAL TO THE APPELLATE TRIBUNAL (RULE 28.)

*Notification No. 5 dated 25th January 1941.*

In exercise of the powers conferred by sub-section (1) of Section 59 of the Indian Income-tax Act, 1922, (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Indian Income-tax Rules, 1922, the same having been previously published as required by sub-section (4) of the said section, namely :

1. For rule 22 of the said Rules] the following shall be substituted, namely :—

“22. An appeal under Section 33 shall, in the case of an

**appeal against—**

(a) an order under clause (a) or (b) or (g) of sub-section (3) of Section 31, be in form B (T),

(b) an order under clause (e) of sub-section (3) of Section 31, confirming an order under Section 26-A, refusing to register a firm or cancelling such order and directing the Income-tax Officer to register the firm, be in form D (1) (T),

(c) an order under clause (d) of sub-section (3) of Section 31, confirming, cancelling or varying an order imposing a penalty under sub-section (2) of Section 25, be in form C (T),

(d) an order under Section 28 imposing a penalty or under clause (f) of sub-section (3) of Section 31, confirming, cancelling enhancing or reducing a penalty imposed under Section 28, be in form D E (T),

(e) an order under clause (f) of sub-section (3) of Section 31, confirming, cancelling, enhancing or reducing a penalty imposed under sub-section (6) of Section 44-E, be in form H (T),

(f) an order under clause (f) of sub-section (3) of Section 31, confirming, cancelling, enhancing, or reducing a penalty imposed under sub-section (5) of Section 44-F, be in form H (1) (T),

(g) an order under clause (f) of sub-section (3) of Section 31, confirming, cancelling, enhancing or reducing a penalty imposed under sub-section (1) of Section 46, be in form I (T),

(h) an order under clause (d) of sub-section (3) of Section 31 confirming, cancelling, or varying an order refusing to allow a claim, to a refund under Section 48, be in form (j) (T),

(i) an order under clause (d) of sub-section (3) of Section 31, confirming, cancelling, or varying an order refusing to allow a claim to a refund under Section 49, be in form J (1) (T),

(j) an order under clause (d) of sub-section (3) of Section 31, confirming, cancelling, or varying an order refusing to allow a claim to a refund under Section 49-F, be in form J (T) or J (1) (T), according as the original claim to refund arose under Section 48 or 49,

(k) an order under clause (e) of sub-section (3) of Section 31, confirming an order refusing to cancel an assessment under Section 27 or cancelling such order and directing the Income-tax Officer to make a fresh assessment, be in form A (T),

(l) an order under clause (c) of sub-section (3) of Section 31, confirming an order under sub-section (1) of Section 25-A or cancelling such order and directing the Income-tax Officer to make a further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of Section 25-A, be in form C (1) (T),

(m) an order under clause (d) of sub-section (3) of Section 31, confirming, cancelling or varying an order under sub-section (2) of Section 26, be in form G (T), and

(n) an order under clause (d) of sub-section (3) of Section 31, confirming, cancelling or varying an order under sub-section (1) of Section 23-A, be in form F (T).

## FORM A (T).

**Form of Section 27 Cancellation of Assessment Appeal.  
IN THE (INCOME-TAX) APPELLATE TRIBUNAL BOMBAY.**

27 C.A.A. No.

of 19 T.

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.

Assessment year and in the case of an assessment under  
Section 34 the year in which the income should  
have been assessed.

Previous year.

Commencing the  
day of 19  
and ending the  
day of 19

Grounds on which cancellation was applied for  
Income-tax Officer making the original order.

Date of the refusal to make a fresh assessment.

Appellate Assistant Commissioner determining the appeal.

Whether the original order was confirmed or cancel-  
led and the Income-tax Officer directed to make a  
fresh assessment.

Date of the Appellate Order.

If the appeal is by the assessee, the date on which  
the assessee was served with notice of the appellate  
order.

Postal address on which the appellant undertakes  
to receive notices.

Postal address on which notices should be issued to the  
respondent.

Relief claimed in appeal.

---

*Grounds of Appeal,*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification.*

I, \_\_\_\_\_, the appellant, do hereby declare  
that what is stated above is true to the best of my information and  
belief. Verified to-day the  
at \_\_\_\_\_ day of \_\_\_\_\_ 19

Signed ( \_\_\_\_\_ )

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified  
copy of the order appealed from and two copies of  
the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury  
receipt for Rs. 100.

\*To be filled in by the office.

FORM B (T).

Form of Regular Assessment Appeal.

IN

THE INCOME-TAX APPELLATE TRIBUNAL BOMBAY.

R .A. A. No. of 19 .\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.

Assessment year, and in the case of an assessment under Section 84 the year in which the income should have been assessed.

Previous year.

Commencing the  
day of 19  
and ending the  
day of 19

Income-tax Officer making the original order.

Total income assessed by the Income-tax Officer.

Total world income assessed by the Income-tax Officer.

Amount of loss computed by the Income-tax Officer.

Amount of net tax determined by the Income-tax Officer.

Amount of refund, if any, granted by the Income-tax Officer.

Date of receipt of notice of demand.

Date of intimation of the order of refund.

Date of service of the order of the Income-tax Officer computing loss.

Appellate Assistant Commissioner determining the appeal.

Date of the order of the Appellate Assistant Commissioner.

Date of service of notice of the Appellate Assistant Commissioner's order.

Total income as found by the Appellate Assistant Commissioner.

Total world income as found by the Appellate Assistant Commissioner.

Amount of loss as found by the Appellate Assistant Commissioner.

Postal address on which the appellant undertakes to receive notices.

Postal address on which notices should be issued to the respondent.

Relief claimed in appeal.

*Grounds of Appeal.*

Signed

(Appellant)

Signed

(Authorised representative, if any).

*Verification.*

\*To be filled in by office.

FORM B (T)—*concluded*.

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief. Verified to-day the \_\_\_\_\_ day of 19\_\_\_\_ at \_\_\_\_\_

Signed ( \_\_\_\_\_ ).

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

—————  
FORM C (T).

**Form of Section 25 (2) Penalty Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL BOMBAY.

25 (2) P. A. No.

of 19

.\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.

Description of the business, profession or vocation discontinued.

Assessment year, and in the case of an assessment under Section 34 the year in which the income should have been assessed.

Previous year.

Commencing the  
day of \_\_\_\_\_ 19\_\_\_\_  
and ending the  
day of \_\_\_\_\_ 19\_\_\_\_

Income-tax Officer making the original order.

Date of receipt of notice of demand.

Amount of penalty imposed.

Amount of tax assessed for the period between the end of the previous year and the date of discontinuance.

Appellate Assistant Commissioner determining the appeal.

Whether the original order was confirmed or cancelled or varied on appeal, and if varied, in what respect.

Date of the appellate order.

If the appeal is by the assessee the date on which the assessee was served with notice of the appellate order.

Postal address on which the appellant undertakes to receive notices.

Postal address on which notices should be issued to the respondent.

Relief claimed in appeal.

\*To be filled in by the office.

FORM C (T)—*concluded.*

*Grounds of appeal.*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification.*

I, , the appellant, do hereby declare that what is stated above is true to the best of my information and belief. Verified to-day the 19 at day of

Signed ( ).

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

FORM C (1) (T).

**Form of Section 25-A Assessment after Partition Appeal.**

IN

THE INCOME-TAX APPELLATE TRIBUNAL BOMBAY.

25A. A. P. A. No. of 19 .\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.

Income-tax Officer making that original order.

Date of intimation of the refusal to pass an order under sub section (1) of Section 25-A.

Appellate Assistant Commissioner determining the appeal.

Whether the original order was confirmed on appeal or cancelled and the Income tax Officer directed to make an assessment in the manner laid down in sub-section (2) of Section 25-A

Date of the appellate order.

If the appeal is by the assessee, the date on which the assessee was served with notice of the appellate order.

Postal address on which the appellant undertakes to receive Notices.

Postal address on which notices should be issued to the respondent.

Relief claimed in appeal.

*Grounds of Appeal.*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification.*

\*To be filled in by the office.



FORM C (1)—*concluded*.

I, \_\_\_\_\_, the appellant, do hereby  
 declare that what I have stated above is true to the best of my  
 information and belief. Verified to-day the \_\_\_\_\_ day of  
 19 \_\_\_\_\_ at \_\_\_\_\_.

Signed ( \_\_\_\_\_ ).

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of  
 the order appealed from and two copies of the grounds of appeal  
 to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt  
 for Rs. 100.

## FORM D-E (T).

## Form of Section 28 Penalty Appeal.

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL BOMBAY.  
 28 P. A. No. \_\_\_\_\_ of 19 \_\_\_\_.\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed. Assessment year, and in the case of an assessment under Section 34 the year in which the income should have been assessed. Officer making the original order. Date of receipt of notice of demand. Amount of the penalty. Reason for imposing the penalty. Appellate Assistant Commissioner determining the appeal. Whether the original order was confirmed or can- celled or varied on appeal, and if varied in what respect. Date of the order of the Appellate Assistant Com- missioner. If the appeal is by the assessee, the date on which the assessee was served with notice of the Appel- late Assistant Commissioner's order. Postal address on which the appellant undertakes to receive notices. Postal address on which notices should be issued to the respondent. Relief claimed in appeal.	
---	--

*Grounds of Appeal.*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification.*

\*To be filled in by the office.

**R. 22] F. OF APPEAL TO THE APPELLATE TRIBUNAL 267**  
**FORM D/E (T)—concluded**

I, \_\_\_\_\_, the appellant, do hereby declare  
that what is stated above is true to the best of my information  
and belief. Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signed ( \_\_\_\_\_ ).

*F.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy  
of the order appealed from and two copies of the ground  
of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury  
receipt for Rs. 100.

FORM D (1) (T).

**Form of Section 26A. Registration Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY

26A. Reg. A No. \_\_\_\_\_ of 19 \_\_\_\_.\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the application is filed.

Date of the application to Income-tax Officer.

Name of the firm registration of which was applied  
for.

Income-tax Officer making the original order.

Date of intimation of the order refusing to register  
the firm.

Appellate Assistant Commissioner determining the  
appeal.

Whether the original order was confirmed on appeal  
or cancelled and the Income-tax Officer directed to  
register the firm.

Date of the appellate order.

If the appeal is by the assessee, the date on which the  
assessee was served with notice of the appellate  
order.

Postal address on which the appellant undertakes  
to receive notices.

Postal address on which notice should be issued to  
the respondent.

Relief claimed in appeal.

*Grounds of Appeal*

Signed \_\_\_\_\_

(Appellant).

Signed \_\_\_\_\_

(Authorised representative, if any).

\*To be filled in by the office.

FORM D (1) (T)—*concluded*.*Verification*

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief  
 Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signed ( \_\_\_\_\_ ).

1.—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

## FORM F (T).

**Form of Section 23A (1) Company Appeal**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY

23A. (1) C.A. No. \_\_\_\_\_

of 19 \_\_\_\_.\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.  
 Previous year.

Commencing the  
 day of \_\_\_\_\_ 19\_\_\_\_  
 and ending the  
 day of \_\_\_\_\_ 19\_\_\_\_.

Total assessable income of the company as found by the Income-tax Officer.

Proportion of the assessable income (as determined by the Income-tax Officer) distributed as dividends by the company.

Income-tax Officer making the original order.

Date of the intimation of the original order under sub section (1) of Section 23-A.

Appellate Assistant Commissioner determining the appeal.

Whether the original order was confirmed, cancelled or varied on appeal, and if varied, in what respect.

Date of the appellate order.

It the appeal is by the assessee, the date on which the assessee was served with notice of the appellate order.

Postal address on which the appellant undertakes to receive notices.

Postal address on which notices should be issued to the respondent.

Relief claimed in appeal.

\*To be filled in by the office

FORM F (T)—*concluded.*

*Grounds of Appeal*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification*

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.  
Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signed ( \_\_\_\_\_ ).

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from, and two copies of the grounds of appeal to the Tribunal.

8. The appeal must be accompanied by a Treasury receipt for Rs 100.

FORM G (T).

**Form of Section 26 (2) Succession Appeal.**

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY.

26 (2) S. A. No. \_\_\_\_\_ of 19 \_\_\_\_.\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.  
Assessment year, and in the case of an assessment under Section 34 the year in which the income should have been assessed.  
Previous year.

Commencing the  
day of \_\_\_\_\_ 19.  
and ending the  
day of \_\_\_\_\_ 19.

Income-tax Officer making the original order  
Date of receipt of notice of demand  
Amount of tax assessed for the previous year and the period between the end of the previous year and the date of succession.  
Appellate Assistant Commissioner determining the appeal.  
Whether the original order was confirmed on appeal or cancelled or varied, and if varied in what respect.  
Date of the appellate order.

\*To be filled in by the office.

FORM G (T)—*concluded*.

If the appeal is by the assessee, the date on which the assessee was served with notice of the Appellate order.

Postal address on which the appellant undertakes to receive notices.

Postal address on which notices should be issued to the respondent.

Relief claimed in appeal.

*Grounds of Appeal*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification*

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.  
Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signed ( \_\_\_\_\_ ).

*N.B.*—1. Strike out unnecessary columns.

2 The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.

3 The appeal must be accompanied by a Treasury receipt for Rs. 100.

## FORM H (T).

**Form of Section 44-E (6) Penalty Appeal.**

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY.

44-E. (6) P. A. No. \_\_\_\_\_

of 19 \_\_\_\_.\*

*versus*

**APPELLANT.**

**RESPONDENT.**

Province from which the appeal is filed.

Period specified in the notice.

Particulars required by the Income-tax Officer.

Income-tax Officer making the original order.

Amount of the original penalty.

Amount of further penalty, if any.

Date of receipt of notice of demand.

\*To be filled in by the office.

FORM H (T)—*concluded*.

Appellate Assistant Commissioner determining the appeal.

Whether the original order was confirmed, cancelled or varied on appeal, and if varied, in what respect.

Date of the order of the Appellate Assistant Commissioner.

If the Appeal is by the assessee, the date on which the assessee was served with notice of the appellate order.

Postal address on which the appellant undertakes to receive notices.

Postal address on which notices should be issued to the respondent.

Relief claimed in appeal.

*Grounds of Appeal*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification.*

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief  
Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signed ( \_\_\_\_\_ ).

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

FORM H (1) (T).

**Form of Section 44-F (5) Penalty Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY

44 F. (5) P. A.

of 19 \_\_\_\_.\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.

Period specified in the notice.

Particulars required by the Income-tax Officer.

\*To be filled in by the office.

FORM H (1) (T)—*contd.*

Income tax Officer making the original order.  
Amount of the original penalty.  
Amount of further penalty, if any.  
Date of receipt of notice of demand.  
Appellate Assistant Commissioner determining the appeal.  
Whether the original order was confirmed, cancelled or varied on appeal, and if varied, in what respect.  
Date of the order of the Appellate Assistant Commissioner.  
If the Appeal is by the assessee, the date on which the assessee was served with notice of the appellate order.  
Postal address on which the appellant undertakes to receive notices.  
Postal address on which notices should be issued to the respondent.  
Relief claimed in appeal.

*Grounds of Appeal*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification*

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief  
Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signed ( \_\_\_\_\_ ).

*N.B* --1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.
3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

FORM I (T).

**Form of Section 46 (1) Penalty Appeal.**

IN

THE (INCOME-TAX) APPELLANT TRIBUNAL, BOMBAY  
45 (1) P. A. No \_\_\_\_\_ of 19 \_\_\_\_.\*

*versus*

APPELLANT

RESPONDENT

Province from which the appeal is filed.

To be filled in by the office.



FORM I (T)—*concl'd.*


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Assessment year, and in the case of an assessment  
 under Section 34 the year in which the income  
 should have been assessed.  
 Income tax Officer making the original order.  
 Amount of tax determined.  
 Amount of tax in arrears.  
 Period during which default continued.  
 Amount of the Penalty.  
 Date of receipt of notice of demand.  
 Appellate Assistant Commissioner determining the  
 appeal.  
 Whether the original order was confirmed, cancelled  
 or varied on appeal, and if varied, in what respect.  
 Date of the appellate order.  
 If the Appeal is by the assessee, the date on which  
 the assessee was served with notice of the  
 Appellate order.  
 Date of filing appeal in the Tribunal.  
 Postal address on which the appellant undertakes  
 to receive notices.  
 Postal address on which notices should be issued to  
 the respondent.  
Relief claimed in appeal.

---

*Grounds of Appeal*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification*

I, \_\_\_\_\_, the appellant, do hereby declare that what is  
 stated above is true to the best of my information and belief.  
 Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_

Signed ( \_\_\_\_\_ ).

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy  
 of the order appealed from and two copies of the  
 grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury  
 receipt for Rs. 100.

## FORM J (T).

**Form of Section 48 Refund Appeal and Section 49  
Refund Appeal.**

(This form is to be used for Section 49-F Refund Appeal only when the original claim to refund arose under Section 48.)

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY  
48 R. A./49 F.R.A. No. of 19 .\*

*versus*

APPELLANT.

RESPONDENT.

---

Province from which the appeal is filed.  
Income-tax Officer making the original order.  
Date of intimation of the original order.  
Amount of refund claimed if ascertainable  
Amount ordered to be refunded.  
Appellate Assistant Commissioner determining the appeal.  
Whether the original order was confirmed, cancelled or varied on appeal, and if varied in what respect.  
Date of the appellate order.  
If the Appeal is by the assessee, the date on which the assessee was served with notice of the appellate order.  
Postal address on which the appellant undertakes to receive notices.  
Whether the appellant claims in his own right or in a representative capacity, and in the latter case the nature of the representative capacity.  
Postal address on which notices should be issued to the respondent.  
Relief claimed in appeal.

---

*Grounds of Appeal*

Signed

(Appellant).

Signed

(Authorised representative, if any).

*Verification*

I, \_\_\_\_\_, the appellant do hereby declare that what is stated above is true to the best of my information and belief.  
Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_

Signed ( \_\_\_\_\_ ).

\*To be filled in by the office.

FORM J (T). *concl'd.*

**N.B.—1. Strike out unnecessary columns.**

2. The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

FORM J (1) (T).

## Form of Section 49 Refund Appeal and Section 49-F. Refund Appeal

(This form is to be used for Section 49-F Refund Appeal only  
when the original claim to refund arose under Section 49 )

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY.  
49 R.A./49F. R. A. No of 19 \*.

**VERSUS**

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.  
Income-tax Officer making the original order.  
Date of intimation of the original order.  
Relief obtained under Section 27 of the Finance Act, 1927.  
Amount of refund claimed if ascertainable  
Amount ordered to be refunded.  
Appellate Assistant Commissioner determining the appeal.  
Date of the appellate order.  
If the appeal is by the assessee, the date on which the assessee was served with notice of the appellate order.  
Postal address on which the appellant undertakes to receive notices.  
Whether the appellant claims in his own right or in a representative capacity, and in the latter case the nature of the representative capacity.  
Postal address on which notices should be issued to the respondent.  
Relief claimed in appeal.

## Grounds of Appeal

**Signed**

(Appellant)

**Signed**

(Authorised representative, if any).

\*To be filled in by the office.

FORM J (1) (T)—*concl'd.**Verification*

I, \_\_\_\_\_, the appellant do hereby declare that what is stated above is true to the best of my information and belief.  
Verified to-day the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_

Signed ( \_\_\_\_\_ ).

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and two copies of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100

— — — — —  
**REFERENCE APPLICATION—(RULE 22-A.)**

2. After Rule 22, the following rule shall be added, namely :—

“22-A. An application under sub-section (1) of Section 66 requiring the Tribunal to refer to the High Court any question of law shall be in the following form :—

FORM R (T).

**Form of Section 66 (1) Reference application.**

**IN**

THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY.

In the matter of the assessment of

66 R A. No. \_\_\_\_\_ of 19 \_\_\_\_\_

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.

Name and number of the appeal which give rise to the reference.

The applicant states as follows :—

1. That the appeal noted above was decided by the Bench of the Tribunal on \_\_\_\_\_

2. That the notice of the order under sub-section (4) of Section 33 was served on the application on \_\_\_\_\_

3. That the Bench arrived at the following findings in its order :—

(Here state in serial and appropriate order the relevant findings arrived at by \_\_\_\_\_ the Bench)

(1) \_\_\_\_\_ (2) \_\_\_\_\_

(3) \_\_\_\_\_ (4) \_\_\_\_\_

4. That in arriving at the findings mentioned at No. \_\_\_\_\_ in paragraph 3 of this application the Bench committed an error of law namely :—

(Here state concisely the error of law).

5. That on the findings recorded by the Bench the following question of law arise (here formulate concisely the question of law).

6. That the applicant therefore prays that as required by Section 66 of the Indian Income-Tax Act a statement of the case be drawn up and referred to the High Court, and

7. That the documents the list of which giving particulars is appended, be forwarded to the High Court.

Signed

(Appellant)

Signed

(Authorised representative, if any).

*N.B.*—The application must be accompanied by a bearing receipt for Rs. 100.

## INCOME-TAX APPELLATE TRIBUNAL—RULES REGULATING PROCEDURE.

*Notification No. 2-D, dated 1st February 1941.*

The following extracts from rules made by the Income-tax Appellate Tribunal in exercise of the powers conferred on it by sub-section (8) of Section 5-A of the Indian Income-tax Act, 1922 (XI of 1922), regulating its procedure and the procedure of Benches of that Tribunal have been published in the Gazette of India dated 1st February 1941.

\* \* \* \* \*

2. In these rules, unless there is anything repugnant in the subject or context,—

(i) “Act” means the Indian Income-tax Act, 1922 (XI of 1922).

(ii) “Authorised representative” means—

(a) a person duly authorised by the assessee to attend before the Tribunal under Section 61 of the Act ;

(b) in the case of an appeal by the assessee, a person duly authorised by the respondent to represent him before the Tribunal ; and

(c) in the case of an appeal under sub-section (2) of Section 33, a person duly authorised by the Income-tax Officer to represent him before the Tribunal ;

(iii) “Bench” means a Bench of the Tribunal constituted under sub-section (5) of Section 5-A of the Act ;

(iv) “Chief Ministerial Officer” at the headquarters of the Tribunal means the Superintendent, and at the headquarters of a Bench the Head Clerk ;

(v) “Full Bench” means a Bench of more than two members of the Tribunal ;

(vi) “Member” means a member of the Tribunal ;

(vii) “President” means the President of the Tribunal ;

(viii) "Province" means a Governor's Province or a Chief Commissioner's Province as defined by the Government of India Act, 1935, or any territorial jurisdiction treated as a separate entity for Income-tax statistical purposes ; and the expression "provincial" shall be construed accordingly ;

(ix) "Registrar" means the person who is for the time being discharging the functions of the Registrar of the Tribunal ;

(x) "Section 66 Reference Application" means an application under sub-section (1) of Section 66 of the Act, requiring the Tribunal to refer to the High Court any question of law ;

(xi) "Signed" has the same meaning as in the General Clauses Act, 1897 (X of 1897) ;

(xii) "Third-Member Case" means a case referred by the President to a third member under sub-section (7) of Section 5-A of the Act on difference of opinion between the members of the original Bench ;

(xiii) "Tribunal" means the Appellate Tribunal constituted by the Central Government under Section 5-A of the Act.

### PART III

#### *Headquarters and Places and Times of Sitting.*

8. The Headquarters of the Tribunal shall be at Bombay.

9. (1) Each Bench shall have its headquarters at such place and hold sittings at such place or places as the President may direct and shall hear and determine such appeals as are assigned to it by the President by a general or special order.

(2) Nothing in this Rule shall preclude a Bench from entertaining and determining any *interim* application that may be made direct to it.

10. The President may by a general order direct that all appeals from a particular area shall be heard and determined by a particular Bench, and on the making of any such order all appeals from that area shall, in the absence of a special order to the contrary, be heard and determined by that Bench.

11. The office of the Tribunal shall observe the same office hours and holidays other than vacations as are observed by the Civil Court of the highest jurisdiction at the headquarters of the respective Benches except as otherwise ordered by the President or Benches concerned.

The office of the Benches having their headquarters at places other than Bombay shall, subject to any contrary order by the Bench concerned, observe the same office hours and holidays as are observed by the Civil Courts of their headquarters.

Provided that no case shall be heard or the attendance of a party required in a place on a day which is a local holiday in that place.

PART IV.

*Presentation, Form, Registration and Notices of Appeals.*

*Presentation.*

14. An appeal to the Tribunal shall be presented in person or by a representative to the Registrar at New Delhi, or some officer authorised in this behalf by the Registrar.

Provided that an appeal which is received in the office of the Registrar by post within the prescribed period of limitation shall be deemed to have been validly presented.

15. The Registrar or some officer authorised by him in this behalf shall endorse on the memorandum of appeal the date on which an appeal is received in the office.

*Form*

16. The Forms prescribed by the Central Board of Revenue when applicable, and where they are not applicable, forms of the like character, as nearly as may be, shall be used for all appeals referred to the Tribunal.

17. Every appeal shall be preferred in the form of a memorandum signed by the appellant and his authorised representative, if any, and verified by the appellant.

18. The memorandum shall be written in English and shall set forth concisely and under distinct heads, on a separate Government water-marked foolscap size paper, the grounds of appeal, without any argument or narrative; and such grounds shall be numbered consecutively.

19. The memorandum shall be accompanied by a a certified copy of the order appealed from and two copies of the grounds of appeal.

20. Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

21. The appellant shall not, except by leave of the Tribunal, urge or be heard in support of any ground of objection not set forth in the grounds of appeal; but the Tribunal, in deciding the appeal, shall not be confined to the grounds of objection set forth in the grounds of appeal or taken by leave of the Tribunal under this rule.

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the case on that ground.

22. (1) Where the memorandum of appeal is not drawn up in the prescribed manner, it may be rejected, or, on such terms as the Tribunal may think fit, be returned to the appellant for the purpose of being amended within a time to be fixed by the Tribunal or be amended then and there.

(2) Where the Tribunal rejects any memorandum, it shall record the reasons for such rejection.



(3) Where a memorandum of appeal is amended, the Tribunal, or such officer as the Tribunal appoints in this behalf shall sign or initial the amendment.

23. In an appeal by the assessee under sub-section (1) of section 33 of the Act, the officer or authority making the original order shall be made a respondent to the appeal.

24. In an appeal under sub-section (2) of Section 33 of the Act, the party who was the appellant before the Appellate Assistant Commissioner shall be made a respondent to the appeal.

25. Where the memorandum of appeal is signed by an authorised representative, such representative shall annex to the memorandum of appeal the writing constituting his authority and his acceptance of it. The acceptance shall be signed and dated by the representative and shall state whether he is a lawyer, an accountant or an income-tax practitioner, or is a person who is a relative of, or regularly employed, by the assessee. If the representative is a person regularly employed by the assessee he shall state the capacity in which he is at the time employed; if he is a relative of the assessee, he shall state his relationship with the assessee: and if he is an income-tax practitioner he shall state his qualifications under clause (iv) of sub-section (2) of Section 61 of the Act.

26. In the case of an appeal under sub-section (2) of Section 33, the Income-tax Officer shall append a certificate to the memorandum of appeal that the appeal has been preferred under the direction of the Commissioner.

27. An authorised representative appearing for a party at the hearing of an appeal shall, unless he has already filed his authority and his acceptance of it under rule 26 before the commencement of the hearing file his authority; and if the party by whom he has been appointed to represent is the assessee he shall also file his acceptance of the authority containing the particulars required by rule 26.

\* \* \* \* \*

33. (1) A notice under these rules may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (Act V of 1908).

(2) Any such notice may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager, or any adult male member of the family and, in the case of any other association of persons be addressed to the principal officer thereof:

Provided that where a memorandum of appeal states that a Hindu undivided family, firm or other association of persons has appealed through a particular person, notice of the hearing of the appeal shall be served on that person; and where the appeal is against such family, firm or association and a particular person is mentioned in the memorandum of appeal as the person representing the respondent family, firm or association, the notice shall also be served on that person.

34. If an authorised representative of a party has filed his authority in the appeal, the notice of the hearing of the appeal may be served on such representative.

PART V

*Hearing, Adjournment and Judgment.*

35. On the day fixed, or any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Bench shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

36. (1) Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the appeal unless adjourned to some other day, may notwithstanding such default be decided on merits.

(2) Save with the permission of the Bench no appeal shall be withdrawn and when such application has been granted the appeal shall be dismissed.

37. Where the appellant appears and the respondent does not appear when the appeal is called on for hearing, the appeal shall be heard *ex-parte*.

37-A. Where the appeal has been heard in the absence of a party, the party may apply for a rehearing of the appeal and if he satisfies the Bench that the notice of the hearing of the appeal was not duly served on him or that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing the Bench shall rehear the appeal on such terms as it thinks fit.

An application under this rule shall be made to the Bench which heard the original appeal within 30 days of the date of the order in appeal, or where the notice of the appeal was not duly served within 30 days of the date when the party had knowledge of the order.

37-B. (1) Where an assessee, whether he be the appellant or the respondent to an appeal, dies or is adjudicated insolvent, the appeal shall not abate and may if the assessee was the appellant be continued by, and if he was the respondent be continued against, the executor, administrator, or other legal representative of the assessee or by or against the official receiver.

(2) Where an appeal has been heard in the absence of such executor, administrator, legal representative or receiver, he may within a reasonable time apply for the rehearing of the appeal and if he satisfies the Tribunal that the appellant had no notice of the date of hearing of the appeal or that he was prevented by any sufficient cause from appearing on the day when the appeal was called on for hearing, the Tribunal shall, on such terms as it thinks fit, rehear the appeal.

*Adjournment.*

38. The Bench may (on such terms as it thinks fit) and at any stage adjourn the hearing of the appeal.

\* \* \* \* \*

## PART VI

*Applications for Reference.*

44. Section 66 Reference application shall be in the prescribed form and shall be accompanied by a copy thereof.

45. Subject to the special provisions of this Part, the provisions of Parts III and IV of these rules shall apply to the presentation, notices and hearing of a Reference Application as if it were an appeal :

Provided that an authorised representative need not comply with the provisions of rule 26 if he has already filed his authority and its acceptance in the appeal which gives rise to the application.

46. Where the application is by the assessee, the Commissioner of Income-tax to whom the opposite party to the appeal which gives rise to the application is subordinate, shall be made a respondent.

47. Where the application is by the Commissioner of Income-tax, the assessee shall be made a respondent.

48. The application shall comply with the following :—

(a) The findings of fact arrived at in the order under Sub-section (4) of Section 33 and the relevant question of law required to be referred to the High Court shall be stated therein.

(b) Such question shall be concisely formulated therein.

(c) A list of documents giving particulars thereof which the applicant desires to be forwarded to the High Court shall be appended to it.

49. Where the correctness of a finding of a fact arrived at in the order under Sub-section (4) of section 33 is questioned on the ground that in arriving at that finding the Bench determining the appeal committed an error of law, the application shall state the precise error of law and allege what, but for that error of law, the finding ought to have been.

50. Where the application is in order it shall be registered in the register of Reference Application and sent with the relevant record for disposal to the Bench which decided the appeal or to such other Bench as the President may decide.

\* \* \* \* \*

52. On the day fixed or any other day to which the hearing may be adjourned, the Bench shall hear the applicant or his authorised representative in support of the application and may, without sending notice to the respondent, dismiss the application if it is of the opinion that no question of law arises out of the order under sub-section (4) of Section 33 or if no question of law has been formulated.

53. Where the Bench does not dismiss the application under rule 52, it shall send notice of the date of hearing the application to the respondent accompanied by a copy of such application and require him to submit, within such time as it may fix, a reply in writing to the application.

54. The reply to the application shall specifically admit or deny whether the question formulated by the applicant arises out of the order under sub-section (4) of Section 33 or not and whether it is a question of law or not. If the question formulated by the applicant is defective, the reply shall state in what particular the question is defective and what is the exact question of law which arises out of the said order. The reply shall be accompanied by a copy thereof.

55. A list of documents giving full particulars thereof which the respondent desires to be forwarded to the High Court, shall be appended to the reply.

59. After giving the parties an opportunity to be heard the Bench shall dismiss the application if no question for reference to the High Court has been formulated in the application or when it is of the opinion that the question formulated by the applicant is not one of law or does not arise for the order under sub-section (4) of Section 33.

59A. Where the Bench considers that a question of law arises out of the order under sub-section (4) of Section 33 it shall draw up a statement of the case and send it together with the records to the Headquarters of the Tribunal.

## PART VII.

### *Miscellaneous.*

66. (1) The scale of copying fees, where chargeable, shall be as under—

(a) For the first 200 words or less :—

English..... 12 as.

Vernacular.....6 as.

(b) For every additional 100 words or fraction thereof :—

English..... 6 as.

Vernacular..... 3 as.

A uniform extra fee of Re. 1 shall be charged on application for urgent copies.

(2) The Tribunal may supply to the parties free of cost and without application one copy of its order under sub-section (4) of Section 33 or of any order passed or statement drawn up by it under Section 66 of the Act.

70. The scales of inspection fee shall be as under :—

(a) For each hour or part of an hour for ordinary inspection.....Re. 1 Court Fee Stamp.

(b) For each hour or part of an hour for urgent inspection.....Rs. 2 Court Fee Stamp.

71. Applications to the Tribunal for the inspection of documents or for the grant of certified copies of the document. shall be in the form prescribed by the President.

*President's Standing Order No. 1.*

In exercise of the powers conferred on him by sub-section (5) of Section 5A, of the Income-tax Act, 1922, and Rule 10 of the Appellate Tribunal Rules, the President directs that all appeals from the following Provinces, namely :—

Delhi,  
United Provinces,  
The Punjab,  
North-West Frontier  
Province,

Sind,  
British Baluchistan,  
Mount Abu, and  
Ajmer Merwara,

shall be heard and determined by the Delhi Bench ; all appeals from the following Provinces, namely :—

Bengal,  
Madras,  
Assam,  
Bihar,

Orissa,  
Coorg, and  
Civil and Military Station,  
Bangalore,

shall be heard and determined by the Calcutta Bench ; and all appeals from the following Provinces, namely :—

Bombay, and  
Central Provinces and Berar

shall be heard and determined by the Bombay Bench.

### **APPEALS TO APPELLATE TRIBUNAL—REMISSION OF COURT FEES.\***

In exercise of the powers conferred by Section 35 of the Courts Fees Act, 1870 and in supersession of the Notification of the Government of India in the Home Department No. 123-41 Public dated 13th November, 1941, the Central Government is pleased to remit—

(i) the fees chargeable under Article 6 of Schedule I to the said Act on copies of orders passed by any income-tax authority, when such copies are presented to the Appellate Tribunal in connection with any appeal under the Indian Income-tax Act, 1922 ; and

(ii) the fees chargeable under Article 11 of Schedule II to the Court Fees Act, 1870, on memoranda of appeal presented to the Appellate Tribunal constituted under the Indian Income-tax Act, 1922.

### **THE INDIA AND BURMA (INCOME-TAX RELIEF) ORDER, 1936.**

\* \* \* \* \*

#### **PART I.**

##### **INTRODUCTORY AND GENERAL.**

1. This Order may be cited as "THE INDIA AND BURMA (INCOME-TAX RELIEF) ORDER", 1936.

2. The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

\*Notification No. 123 41 dated 29-1-1942.

3. Any reference in this Order to or to any provisions of the Indian Income-tax Act, 1922, shall be construed as a reference to that Act or those provisions as for the time being in force in India, as for the time being in force in Burma or as for the time being in force both in India and in Burma, as the context and the circumstances may require, or, if that Act or those provisions have been repealed and re-enacted, either with or without modifications, to the re-enacting Act or provisions as in force as aforesaid.

4. In this Order, "Income-tax," or "tax" in relation to India or Burma, means income-tax payable in accordance with the Indian Income-tax Act, 1922, and includes super-tax so payable; and other expressions have, except where the context otherwise requires, same meanings as in the Indian Income-tax Act, 1922.

5. References in this Order to the rate of tax shall—

(a) in relation to India or Burma be construed as references to a rate determined by dividing the amount of income-tax paid in India or Burma, as the case may be, for the year in question (before deduction of any relief granted under section forty-nine of the Indian Income-tax Act, 1922, or under this Order) by the amount of the income on which tax was charged;

(b) in relation to the United Kingdom, mean the appropriate rate of United Kingdom income-tax for the year in question as defined for the purposes of section twenty-seven of the Finance Act, 1920.

6. Any reference in this Order to the lower of two rates shall where the rates are equal, be construed as a reference to either of those rates, and any reference in this Order to the two lowest of three rates shall, where the three rates are equal, be construed as a reference to any two of them and where two of the three rates are equal and the third is less, be construed as a reference to the lowest rate and one of the equal rates.

7. This Order shall have effect with respect to the financial year beginning on the date of the commencement of Part III of the India Act and every subsequent financial year:

Provided that if, at any time after the expiration of three years from the commencement of Part III of the India Act, the Governor-General of India gives to the Governor-General of Burma, or the Governor of Burma gives to the Governor-General of India, notice of his desire that this Order shall cease to operate the Order shall not have effect with respect to any financial year subsequent to the financial year next following that during which the notice is given.

## PART II.

### RELIEF IN INDIA.

1. If any person who has paid Indian Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for that year Burman Income-tax, or Burman income-tax and United Kingdom income-tax, in respect of that part of his income, he shall be entitled to a refund of Indian tax calculated on that part of his income at the appropriate rate of relief.



In this paragraph "appropriate rate relief" means—

- (a) in relation to income taxed in India and Burma and not in the United Kingdom a rate bearing to the Indian rate of tax or the Burman rate of tax, whichever is the lower, the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the Burman rate of tax ;
- (b) in relation to income taxed in India, Burma and the United Kingdom, a rate bearing to the difference between the total rate at which he was entitled to and obtained, relief in the United Kingdom under section twenty-seven of the Finance Act, 1920, in respect of that income, and the sum of the two lowest of the three rates of tax the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the Burman rate of tax.

2. No refund of tax shall be payable in India under section forty-nine of the Indian Income-tax Act, 1922, in respect of any income which is taxed under that Act of Burma, and if any such refund is made it shall be repaid.

3. Any sums repayable under the last foregoing paragraph and any sums overpaid by way of refund under this Part of this Order shall be recoverable as if they were arrears of income-tax.

4. No income which an assessee proves to the satisfaction of the Income-tax Officer to have been charged in his hands to income-tax under the Indian Income-tax Act, 1922, for any year preceding the commencement of Part III of the India Act shall be included in India in the assessment of his income for any subsequent year.

5. In the provisions of the Indian Income-tax Act, 1922 (other than the provisions of section forty-nine thereof)—

- (a) any reference to that Act or to section forty-nine thereof shall be construed as including a reference to this Part of this Order;
- (b) any reference to section twenty-seven of the Finance Act, 1920, shall be construed as including a reference to Part III of this Order ;
- (c) any reference to the United Kingdom in relation to relief under the said section twenty-seven, or in relation to refunds under the said section forty-nine, shall be construed as including a reference to Burma in relation to refunds under Part III of this Order or this Part of this Order, as the case may require.

### PART III.

#### RELIEF IN BURMA

1. If any person who has paid Burman Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for that year Indian income-tax or Indian income-tax and United Kingdom income-tax, in respect of that part of his income, he shall be entitled to a refund of Burman tax calculated on that part of his income at the appropriate rate of relief.



In this paragraph "appropriate rate of relief" means—

- (a) in relation to income taxed in Burma and India and not in the United Kingdom a rate bearing to the Burman rate of tax or the Indian rate of tax, whichever is the lower, the same proportion as the Burman rate of tax bears to the sum of the Burman rate of tax and the Indian rate of tax ;
- (b) in relation to income taxed in Burma, India and the United Kingdom, a rate bearing to the difference between the total rate at which he was entitled to, and obtained relief in the United Kingdom under section twenty-seven of the Finance Act, 1920, in respect of that income, and the sum of the two lowest of the three rates of tax the same proportion as the Burman rate of tax bears to the sum of the Burman rate of tax and the Indian rate of tax.

2. No refund of tax shall be payable in Burma under section forty-nine of the Indian Income-tax Act, 1922, in respect of any income which is taxed under that Act in India, and if any such refund is made it shall be re-paid.

3. Any sums repayable under the last foregoing paragraph and any sums overpaid by way of refund under this Part of this Order shall be recoverable as if they were arrears of income-tax.

4. No income which an assessee proves to the satisfaction of the Income-tax Officer to have been charged in his hands to income-tax under the Indian Income-tax Act, 1922, for any year preceding the commencement of the Burma Act, shall be included in Burma in the assessment of his income for any subsequent year.

5. In the provisions of the Indian Income-tax Act, 1922 (other than the provisions of section forty-nine thereof)—

- (a) any reference to that Act or to section forty-nine thereof shall be construed as including a reference to this Part of this Order;
- (b) any reference to section twenty-seven of the Finance Act, 1920, shall be construed as including a reference to Part II of this Order ;
- (c) any reference to the United Kingdom in relation to relief under the said section twenty-seven or in relation to a refund under the said section forty-nine, shall be construed as including a reference to India in relation to a refund under Part II of this Order or this Part of this Order as the case may require.

— — — — —  
**THE INDIA, BURMA AND ADEN  
 (TRANSITORY PROVISIONS) (TAXATION) ORDER, 1937.**

\* \* \* \* \*

1. This Order may be cited as THE INDIA, BURMA AND ADEN (TRANSITORY PROVISIONS) (TAXATION) ORDER, 1937.

2. The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. In this Order:

“separation” means the separation of Burma and Aden from India ;

“the three countries” means India, Burma and Aden ;

“central taxation” means all taxes, duties, charges, fines and penalties payable or about to become payable under, or in accordance with the provision of, the Acts specified in the Schedule to this Order :

“outstanding Central taxation” means Central taxation which had become payable before separation, or which could have become payable before separation if the existence and extent of the liability had been determined in time.

4. (1) Separation shall not affect—

(a) the amount payable by any person in respect of outstanding Central taxation ;

(b) the amounts to be allowed, by way of drawback, refund, rebate or credit in assessment, to any person in respect of Central taxation paid, or treated as paid, before separation, or in respect of deposits made before separation as security for payment of Central taxation, or in respect of outstanding Central taxation paid after separation.

(2) The said amounts shall remain or become payable, or, as the case may be, allowed, in the same places as if separation had not taken place, and the enactments relating to the assessment, demand and recovery of Central taxation shall, throughout the three countries, continue to apply, as nearly as may be, in relation to those amounts as if there had been no separation :

Provided that any amount paid or allowed after separation shall be paid or allowed for the benefit or at the expense of the Government of that one of those countries in which the place in which the amount first became payable or was allowed is situated, and where any amount which became payable in one of the three countries is recovered in another, any necessary adjustments shall be made between the revenues of those countries accordingly.

5. After separation the same consequences shall flow in each of the three countries from the stamping outside that country of any document executed before separation, as would have flowed therefrom if there had been no separation.

### SCHEDULE.

The Indian Income-tax Act, 1922.

The Sea Customs Act, 1878.

The Land Customs Act, 1924.

The Motor Spirit (Duties) Act, 1917.

The Indian Finance Act, 1922.

The Silver (Excise Duty) Act, 1930.

The Sugar (Excise Duty) Act, 1934.

The Matches (Excise Duty) Act, 1934.

The Mechanical Lighters (Excise Duty) Act, 1934.

The Iron and Steel (Duties) Act, 1934.

## EXCESS PROFITS TAX RULES, 1940.

*Notification No. 1 dated the 28th September, 1940.*

In exercise of the powers conferred by Section 27 of the Excess Profits Tax Act, 1940 (XV of 1940), the Central Board of Revenue makes the following rules, namely :—

Short title                      1. These Rules may be called the Excess Profits Tax Rules, 1940.

Definitions.                      2. In these Rules—

(i) “ the Act ” means the Excess Profits Tax Act, 1940 (XV of 1940) ;

(ii) “ applied section ” means a section of the Indian Income-tax Act, 1922, as applied by Section 21 of the Act and rule

(iii) “Form” means a form as set out in the Schedule to these Rules.

3. The provisions of Sections 4-A, 4-B, 10, 13, 24B, 29, 36 to 44C (inclusive), 45 to 48 (inclusive), 49E, 49F, 50, 54, 61 to 63 (inclusive) and 65 to 67A (inclusive) of the Indian Income-tax Act, 1922, shall apply with the following modifications, namely :—

General Modifications.                      “(i) All reference to “ this Act ” except those in the proviso to clause (iii) of sub-section (2) of Section 10, the first proviso to sub-section (1) of Section 42 Section 44-A, and in sub-section (1) of Section 54 where they last occur, shall be construed as references to “ the Act.”

(ia) All references to “income-tax” except those in the expression “Income-tax practitioner” occurring in sub-section (1) of Section 61, in clause (iv) of sub-section (2) of Section 61 and in sub-clause (a) of clause (iv) of sub-section (2) of Section 61, shall be construed as reference to ‘ excess profits tax.’ ”

Modification of Section 10.                      (ii) In Section 10 :—  
(a) clause (b) and (c) of the proviso to clause (vi) of sub-section (2) shall be omitted ;

(b) for sub-section (7) the following sub-section shall be substituted, namely :—

“ (7) Notwithstanding anything to the contrary in this section or in the Excess Profits Tax Act, 1940, the profits of any business of insurance, other than life insurance, shall be computed in accordance with the rules contained in the Schedule to the Indian Income-tax Act, 1922, in so far as they are applicable to such business.”

\*These Rules have been applied to the District of Abu by Notification of the Government of India No. 11-C, dated 24-5-1941.

**Modification of Section 13.** (iii) In Section 13 the word and figures " and 12 " shall be omitted.

**Modification of Section 24-B.** (iv) In Section 24-B :—  
(a) in sub-section (2)—

(1) the words and figures " before the publication of the notice referred to in sub-section (1) of Section 22 or " shall be omitted and

(2) for the words and figures "sub-section (2) of Section 22 or Section 34," wherever they occur, the words and figures "sub-section (1) of Section 13 or Section 15 of the Excess Profits Tax Act, 1940," shall be substituted ;

(3) for the words ' total income ' the words ' excess profits ' shall be substituted.

(b) in sub-section (3)—

(1) for the words and figures "Section 22" the words and figures "sub-section (1) of Section 13 of the Excess Profits Tax Act, 1940 " shall be substituted ; and

(2) for the words and figures "Sections 22 and 23" the words and figures "sub-section (2) of Section 13 of the Excess Profits Tax Act, 1940" shall be substituted.

(3) for the words "total income" the words 'excess profits' shall be substituted.

**Modification of Section 37.** (v) In Section 37, for the words "this Chapter" the words figures and brackets "Sections 8 to 20 (inclusive) of the Excess Profits Tax Act, 1940" shall be substituted.

**Modification of Section 40.** (vi) For Section 40 the following section shall be substituted, namely :—

" In the case of any agent of any person residing out of British India, being entitled to receive on behalf of such person any profits chargeable under the Excess Profits Tax Act, 1940, the tax shall be levied upon and recoverable from such agent in like manner and to the same amount as it would be leviable upon and recoverable from such person if resident in British India and in direct receipt of such profits, and all the provisions of the said Act shall apply accordingly :

Provided that the tax may be levied and recovered from such non-resident person direct.

**Modification of Section 41.** (vii) The proviso to sub-section (1) of Section 41 shall be omitted.

**Modification of Section 42.** (viii) In the first proviso to sub-section (1) of section 42, the words and figures "the income-tax so chargeable may be recovered by deduction under any of the provisions of Section 18 and that "shall be omitted.

Modification of  
Section 44.

(ix) For Section 44, the following section shall be substituted, namely :—

“ 44. Where any business carried on by a firm or association of persons has been discontinued, every person who was at the time of such discontinuance a partner of such firm or a member of such association shall, in respect of the profits of the firm or association, be jointly and severally liable to assessment under Section 14 of the Excess Profits Tax Act, 1940, and for the amount of tax payable, and all the provisions of the said Act, shall, so far as may be apply to any such assessment.”

\* \* \* \* \*

Modification of  
Section 44B.

(ixa) In Section 44A, for the words “ this chapter ” the words and figures “ the applied Sections 44B and 44C ” shall be substituted.

(x) In Section 44B—

Modification of  
Section 44C.

(a) in sub-section (1) for the words “ this Chapter ” the words and figures “ the applied Section 44A ” shall be substituted,

(b) in sub-section (3), the words “ at the rate for the time being applicable to the total income of a company ” shall be omitted.

(xi) In Section 44C—

(a) for the words “ this chapter ” the words and figures “ the applied Section 44A and 44B ” shall be substituted.

(b) for the words “ of his total income in the previous year ” the words “ of his actual excess profits in the chargeable accounting period ” shall be substituted.

(c) the word “ other ” shall be omitted.

(xii) In Section 45—

Modification of  
Section 45.

(a) the words, brackets, figures and letter “ under sub-section (3) of Section 23A or ” shall be omitted ;

(b) for the words and figures “ Section 31 or Section 32 or Section 33 ”, the words and figures “ sub-section (4) of Section 17 or Section 18 or Section 19 of the Excess Profits Tax Act, 1940 ” shall be substituted ;

(c) for the words and figures “ under Section 30 ”, the words and figures “ under Section 17 of the Excess Profits Tax Act, 1940 ” shall be substituted ;

(d) in the proviso, for the words “ which is due in respect of the amount of his income which ”, the words “ which relates to excess profits arising from such income as ” shall be substituted.

Modification of  
Section 46.

(xiii) Sub-section (5) of Section 46 shall be omitted.

Modification of  
Section 47.

(xiv) In Section 47—

(a) the words and figures “ sub-section (2) of Section 25, Section 28, sub-section (6) of Section 44F or ” shall be omitted ;

(b) after the figures " 46 ", the words and figures " or under the provisions of Section 10 or Section 16 of the Excess Profits Tax Act, 1940 " shall be inserted.

\*

(c) for the words " this chapter " the words and figures " the applied Sections 45 and 46 " shall be substituted.

(xv) In Section 48—

Modification  
of Section 48.

(a) for sub-section (1), the following sub-section shall be substituted, namely—

" (1) If any person, to whose business the Excess Profits Tax Act, 1940, applies satisfies the Excess Profits Tax Officer that the amount of tax paid by him for any chargeable accounting period exceeds the amount with which he is properly chargeable under the said Act for that period, he shall be entitled to a refund of any such excess."

(b) Sub-section (3) shall be omitted.

(c) In sub-section (4), the words, brackets and figures "or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939, which he would not be entitled to claim but for the passing of that Act " shall be omitted.

Modification of  
Section 49F.

(xvi) In Section 49F for the word and figures " or 49 ", the following shall be substituted, namely :—

" or under Section 7 or Section 11 of the Excess Profits Tax Act, 1940."

Modification of  
Section 50.

(xvii) For Section 50, the following section shall be substituted, namely :—

" 50. No claim to any refund of tax under the Excess Profits Tax Act, 1940, shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the accounting period which constitutes or includes the chargeable accounting period in respect of which the claim to such refund arises."

Modification of  
Section 54.

(xviii) In Section 54—

(a) in sub-section (1) for the words " this Chapter," the words and figures " Sections 23, 24 and 25 of the Excess Profits Tax Act, 1940 " shall be substituted ;

(b) in sub-section (3), clauses (e) and (m) shall be omitted ; and in clause (i) for the figures and words " 49 of this Act," the figures and words " 11 of the Excess Profits Tax Act, 1940" shall be substituted :

(c) sub-section (4) shall be omitted,

(xix) In sub-section (1) of Section 66 for the words and figures " sub-section (4) of Section 33 ", the following shall be substituted, namely :—

Modification of  
Section 66.

"Sub-Section (3) of Section IOA, or sub-section (2) of Section 19 of, or sub-rule (2) of rule 12 of schedule I to, the Excess Profits Tax Act, 1940, read with sub-section (4) of Section 33 of the Indian Income-tax Act, -----

4. Rules 8, 23, 24, 33, 34, 44, 45 and 46 of the Indian Income-tax Rules, 1922, shall apply subject to the modification that all references therein to "income-tax" and "the Income-tax Officer" shall be construed as references to "excess profits tax" and "the Excess Profits Tax Officer" respectively.

Form of Notice  
of Demand  
under applied  
Section 29.

5. The notice of demand or of determination of a deficiency of profits under applied Section 29 shall be in Form E. P. 4.

Form of notice  
in default of  
payment.

6. The notice of default of payment of excess profits tax shall be in Form E. P. 6.

6A. Notice under sub-section (2) of Section 14-A of the Act shall be in the form E. P. 3-1 and the order of assessment and notice of demand in respect of provisional assessment made under sub-section (3) of the said section shall be in form E. P. 4-7.

Form of  
return under  
Section 13 (1).

7. The return required under sub-section (1) of Section 13 of the Act shall be in Form E. P. 1.

8. An application to the Board of Referees under sub-section (3) of Section 6 of the Act, for a direction that the profits of the standard period shall be computed as if they were such greater amount as it thinks just shall be made in Form E. P. 14.

Form of appli-  
cation under  
Section 6 (3).

9. An application to the Central Board of Revenue under sub-section (1) of Section 26 of the Act, for a direction that the profits of the standard period shall be computed as if they were such greater amount as it thinks just, shall be made in Form E. P. 15.

Form of appli-  
cation under  
Section 26 (1).

10. An application to the Central Board of Revenue under sub-section (3) of Section 26 of the Act, for a direction that such allowance shall be made in computing the profits of a business during a chargeable accounting period as the Central Board of Revenue thinks just, shall be made in Form E. P. 16, but an application in respect of the earlier exhaustion of mineral sources shall be made in Form E. P. 16 A.

Form of appli-  
cation under  
Section 26 (3).

10-A. An application to the Central Board of Revenue under rule 7 of Schedule II to the Act for a direction that, in computing the average capital of a business during the standard period, certain assets shall be excluded for such period as they were inherently unproductive, shall be made in form E. P. 30.

Form of appli-  
cation under  
Rule 7 of  
Sch. II.

\*These words in italics were substituted by Notification No. 2 dated



Form of  
appeal under  
Section 8 (5)

**11.** An appeal under the proviso to sub-section (5) Section 8 of the Act shall be made in Form E. P. 8 A.

Form of  
appeal under  
Section 8 (8).

**11-A.** An appeal under the proviso to sub-section (8) of Section 8 of the Act shall be in form E. P. 28-A.

Form of  
appeal under  
Rule 11 of  
Sch. I.

**11-B** An appeal against a determination by the Excess Profits Tax Officer under rule 11 of Schedule I to the Act shall be in Form E. P. 29-A.

**12.** An appeal under Section 17 of the Act shall be—

Form of  
appeal under  
Section 17.

(a) in Form E. P. 9, if against a decision of the Excess Profits Tax Officer under Section 8 of the Act ;

(b) in Form E. P. 10, if against the amount of an assessment made or a deficiency of profits under sub-section (1) of Section 14 of the Act ;

(c) in Form E. P. 11, if against an order imposing a penalty under Section 10 or Section 16 of the Act or under sub-section (1) of applied Section 46 ;

(d) in Form E. P. 12, if in respect of an alleged insufficient relief or refund, or a refusal to grant relief or refund, by the Excess Profits Tax Officer.

Form of  
appeal under  
Section 18 (1).

**13.** An appeal under sub-section (1) of Section 18 of the Act shall be in Form E. P. 13.

Form of appli-  
cation for  
refund under  
Section 7.

**14.** An application for refund of excess profits tax under Section 7 of the Act, in respect of a deficiency of profits shall be in Form E. P. 17.

Form of appli-  
cation for  
relief under  
Section 11.

**15.** An application under Section 11 of the Act for relief in respect of double taxation shall be in Form E. P. -18.

Form of  
appeal to the  
Appellate  
Tribunal.

**15-A.** An appeal under sub-section (2) of Section 19 of the Act shall, in the case of an appeal against—

(a) an order of the Excess Profits Tax Officer under Section 8, except an order making the apportionment under sub-section (5) or a modification under sub-section (8), be in Form E. P. 9 (T) ;

(b) an order of the Excess Profits Tax Officer under sub-section (1) of Section 14 of the Act be in Form E. P. 10/13 (T) ;

(c) an order of the Excess Profits Tax Officer imposing a penalty under sub-section (1) of the applied Section 46, be in Form E. P. 11 (1) (T) ;

(d) an order of the Excess Profits Tax Officer imposing a penalty under sub-section (3) of Section 10 of the Act, be in Form E. P. 11 (I) ;

(e) an order of the Excess Profits Tax Officer, the Appellate Assistant Commissioner or the Commissioner imposing a penalty under Section 19 of the Act, be in Form E. P. 11/13 (T) ;

(f) an order of the Excess Profits Tax Officer under Section 7 of the Act granting or refusing to grant relief in respect of a deficiency, be in Form E. P. 12 (I) ;

(g) an order of the Excess Profits Tax Officer granting or refusing to grant relief in respect of double excess profits taxation under Section 11 of the Act, be in Form E. P. 12 (1) (I).

\*[(h) an order of the Excess Profits Tax Officer, in so far as<sup>s</sup> it concerns an adjustment made by him under Section 10-A of the Act, be in Form E. P. 14 (T) ;

(j) an order of the Excess Profits Tax Officer, in so far as it concerns a disallowance made by him under rule 12 of Schedule I to the Act, be in Form E. P. 15 (T)].

16. The notice under sub-section (2) of Section 8 of the Act<sup>t</sup> shall be given by the persons concerned within the period specified in the notice issued under sub-section (1) of Section 13 of the Act or within the extended period allowed by the Excess Profits Tax Officer under the proviso thereto.

17. An appeal under the proviso to sub-section (5) of Section 8 of the Act shall be presented in the office of the Excess Profits Tax Officer by the person carrying on the business prior to the transfer or by the person to whom part of the business was transferred, as the case may be, within 45 days of the date of receipt of the notice of the Excess Profits Tax Officer's apportionments.

17-A. An appeal to the Appellate Tribunal under sub-section (2) of Section 19 of the Act, against an order of the Appellate Assistant Commissioner of Excess Profits Tax under Sections 16 or 17 of the Act shall be made at any time before the expiry of sixty days from the date of such order.

17-AA. An appeal to the Appellate Tribunal against any adjustment made by the Excess Profits Tax Officer under Section 10A, or against any disallowance made by him under rule 12 of Schedule I to the Act shall be made at any time before the expiry of sixty days from the date of receipt of the order of assessment affected by such adjustment.

17-B. The procedure to be followed on an appeal to the Appellate Tribunal under the Act, shall be the same, as nearly as may be, as that prescribed in respect of appeals to that Tribunal under the Income-tax Act.

\*Clause (h) and (j) of R. 15A were added by Notification No. 2 dated Feb. 14, 1942.

\*New rule 17AA was inserted by Notification No. 2 dated Feb. 14, 1942.

**18.** (1) The Excess Profits Tax Officer shall within fifteen days of the receipt of an application under sub-section (3) of Section 6, or of an appeal under sub-section (5) or the proviso to sub-section (8), of Section 8, or under rule 11 of Schedule I, of the Act forward it to the Commissioner for being referred to a Board of Referees for decision.

Procedure on application under Section 6 (3) or appeal under Section 8 (5).

(2) The Commissioner shall, in consultation with the Board of Referees appointed by him in accordance with the Excess Profits Tax (Boards of Referees) Rules, 1940, fix the time and place of the first meeting of the Board, and give notice thereof not being less than one week, together with the names of the members constituting the Board, to the applicant in the case of an application, to the appellant in the case of an appeal under the proviso to sub-section (8) of Section 8, or under rule 11 of Schedule I, of the Act, or to the appellant and the opposite party in the case of an appeal under sub-section (5) of Section 8 of the Act ;

(3) When the hearing of an application or appeal is adjourned, the Board of Referees shall inform the Commissioner and also the applicant or appellant as the case may be, or, in the case of an appeal under sub-section (5) of section 8 of the Act, the appellant and the opposite party, of the time and place of the next hearing.

(4) In sub-rules (2) and (3) the expression " opposite party " means the person by whom, or the person to whom, part of the business was transferred, according as the appeal is preferred by the transferee or the transferor.

**19.** (1) At the hearing of any appeal or application under the Act by a Board of Referees or an Appellate Assistant Commissioner, the Commissioner shall have the right to be represented at hearing of appeals and applications.

Commissioner to be represented at hearing of appeals and applications.

Act by a Board of Referees or an Appellate Assistant Commissioner, the Commissioner shall have the right to be represented by the Excess Profits Tax Officer or such other person as may be appointed by the Commissioner in that behalf.

(2) Notice of the date appointed for the hearing of any appeal or application under the Act shall also be given to the Excess Profits Tax Officer concerned.

**20.** *Investment-holding Companies :—*In the case of a business consisting wholly or mainly in the holding of investments :—

(a) The income from investments to be included in the profits of the business under the provisions of Rule 4 of Schedule I to the Act shall be computed exclusive :—

(i) of all income received by way of dividends or distribution of profits from a company carrying on a business to the whole of which the section of the Act imposing Excess Profits Tax applies ; and

(ii) of the one proportion of all income received by way of dividends or distribution of profits from a company carrying on a business to part only of which the section of the Act imposing excess profits tax applies.

(b) The investments to be excluded from the capital employed in the business under Rule 3 of Schedule II to the Act shall include—

(i) all shares in a company carrying on a business to the whole of which the section of the Act imposing excess profits tax applies and

(ii) the due proportion of all shares in a company carrying on a business to part only of which the section of the Act imposing excess profits tax applies :

Provided that if in relation to any chargeable accounting period, a company to which the rule applies gives notice to the Excess Profits Tax Officer within the time allowed by Section 13 of the Act for furnishing a return in respect of such chargeable accounting period, that the provisions of this rule shall not be applied to, its profits and average capital in relation to such chargeable accounting period shall be computed as if the Rule has not been made.

### SCHEDULE.

#### FORM E. P. I.

Reference to be quoted  
in all communications.

#### Excess Profits Tax.

#### NOTICE TO FURNISH RETURN OF PROFITS AND OTHER PARTICULARS.

To

In pursuance of the provisions of Section 13 (1) of the Excess Profits Tax Act, 1940, you are hereby required to furnish **WITHIN SIXTY DAYS** from the date of the service of this notice, in the form provided overleaf, a return of the profits arising from the business <sup>carried on by</sup> during the chargeable <sup>carried on in the name of</sup> accounting period commencing 19 . and ending 19 , together with such other particulars relating thereto as are specified therein. The return duly signed by you, and the other particulars required therein should be delivered to me at the address given below.

Notes for your guidance are contained in the enclosure to this form. If you desire any further information, application should be made to this office.

If you desire to make an application or election :—

(a) for increase of standard profits under Section 6 (3) or 26 (1) ; [See Notes for Guidance, Notes 4 (v) and (vi)] ;

(b) for modification of computation of profits of chargeable accounting period under Section 26 (3) ; [See Notes for Guidance, Note 8] ;

(c) in the case of changing of partnership under Section 8 (2) ;  
[See Notes for Guidance, Note 11 (1) ;

(d) for exclusion from the average capital of the standard period of inherent by unproductive assets under Rule 7 of Schedule II [See Notes for Guidance] ;

(e) for the exclusion from the average capital of the standard period of inherently unproductive assets under Rule 7 of Schedule 11 ; (See Notes for Guidance, Note 9).

You are requested to intimate your intention in writing to this office *as early as possible*.

**In the case of a company which is the subsidiary of another company resident in British India only the declaration on page 1388\* need be completed.**

**Excess Profits Tax Officer.**

Dated the \_\_\_\_\_ 19\_\_.

**Penalties.**—Particulars are given on page 1390\* of this form.

\*The references are to the pages of the *Gazette of India*.



*Return of profits arising from Business the chargeable  
ending 19 , and other particulars*

(1) Name and address of the person by whom the business was carried on in the above chargeable accounting period.

(2) In the case of a person not resident in British India, carrying on business in British India through an agent resident in British India, the full name and address of the agent through whom the business was carried on in the above chargeable accounting period.

(3) Nature of the business carried on.

(4) Amount of profits arising in the above chargeable accounting period, computed in accordance with the Act. [See Notes for Guidance, Note 8.]

(5) Amount of standard profits computed in accordance with the Act. [See Notes of Guidance, Note 4.]

(6) Basis of computation of standard profits adopted—

(a) the profits of a standard period ; or

(b) the application of the statutory percentage to the average amount of capital employed during the chargeable accounting period. [See Notes for Guidance, Note 4.]

(7) In the case of 6 (a) above, particulars of the standard period chosen, or in the case of 6 (b) above, the date of commencement of the business. [See Notes for Guidance, Note 5.]

(8) Proportionate amount of standard profits in the ratio of the chargeable accounting period to the standard period. [See Notes for Guidance, Note 4 (i).]

#### FURTHER PARTI-

You are required to furnish—

(i) copies of the Trading Accounts, Profit and Loss Accounts and the business have been made up, which constitute or include any part

(ii) a copy of your computation of the profits of the chargeable is chosen, showing the amount of profits as computed for Income-tax of the First Schedule to the Act and of the adjustments due in respect the chargeable accounting period as compared with that employed during the standard (items 3 and 4 on page 1389\*).

(iii) the further particulars specified on pages 1388\* and

#### STATE WHETHER YOU MAKE THE RETURN—

As proprietor of the business ;

As partner in a partnership ;

As Manager or Karta of a Hindu undivided family ;

As principal officer of a company ;

As member of an association ;

As legal representative of a deceased person ;

As liquidator of a company which is being wound up ; or

As agent for a person not resident in British India.

\*The references are to the pages of the *Gazette of India* and correspond



*accounting period commencing  
relating thereto.*

12 , and

(1)

(2)

(3)

(4) Rupees

(5) Rupees

(6)

(7) (a)  
(b)

(8) Rupees

### CULARS REQUIRED.

Balance Sheets of the business for all periods, for which the account of the standard period or the chargeable accounting period ;  
accounting period, and of the standard period where a standard period purposes, details of each adjustment thereto required by the provisions of the first decrease of the capital employed in the business during the standard period ; and of your computation of the average

1389\* hereof.

### DECLARATION.

I hereby declare that, to the best of my knowledge and belief, the information given in this return is correct and complete, and the particulars transmitted herewith are truly stated.

Dated this

day of

19 .

Signature.

Address.

## SCHEDULE OF FURTHER PARTICULARS REQUIRED UNDER

## 1. In the case of a Company

- (a) The name and address of any company, whether or not resident in British India or trading in British India, which is a subsidiary of the company. [See Notes for Guidance Note 12.]
- (b) The name and address of the company, resident in British India, if any, of which the company is a subsidiary company. [See Notes for Guidance, Note 12.]
- (c) In the case of a private limited company, the names of the share-holders in the accounting period which constitutes or includes the chargeable accounting period, with full particulars of the shares held by each. [See Notes for Guidance, Note 8.]

(If this space is insufficient, please attach a schedule of the required particulars.)

## SECTION 13 (1) OF THE EXCESS PROFITS TAX ACT, 1940.

II. In all cases. (Particulars relating to average capital employed).

Amount of capital, computed in accordance with the provisions of the second Schedule to the Act:— Rupees

## 1. Standard period—

(a) Where the standard period is a period of one “previous year”—

(i) as at the commencement of that “previous year.”

(ii) as at the end of that “previous year.”

<sup>or,</sup>  
(b) where the standard period consists of two “previous years.”

(i) as at the commencement of the first of those “previous years.”

(ii) as at the end of the first of those “previous years.”

(iii) as at the commencement of the second of those “previous years.”

(iv) as at the end of the second of those “previous years.”

NOTE.—Where the standard period consists of two consecutive “previous years,” lines (ii) and (iii) should be treated as one.

## 2. Chargeable accounting period—

(a) as at the commencement of that period,

(b) as at the end of that period.

## 3. Average amount of capital employed during the standard period.

## 4. Average amount of capital employed during the chargeable accounting period.

Description.      Rs.      Date.

Additions ( + ) or decreases ( — )  
in capital employed —

(a) during the standard period ;

(b) during the chargeable accounting period (See Note 2 below).

## NOTES :—

1. Where the standard profits are taken to be the statutory percentage of the average capital employed during the chargeable accounting period only items 2, 4 and 5 (b) need be completed.

2. Particulars are required hereof, *inter alia*, income from excluded investments paid into and employed in the business ; sales of business assets ; drawings of proprietor or of partners or, in the case of a company, of dividends paid ; income-tax and super-tax liabilities with the dates when such were due for payment.

3. See also Note 9 in Notes for Guidance.

**PENALTIES.**

1. Failure, without reasonable excuse, to deliver the Return with the other particulars required by the Excess Profits Tax Officer under the provisions of the Excess Profits Tax Act, the concealment of particulars of profits arising from or of capital employed in the business, or the deliberate furnishing of inaccurate particulars of such profits or capital entail penalties under Sections 16, 23 or 24 of the Act.

The penalties are, in the case of failure to deliver the return a sum not exceeding the amount of excess profits tax payable, or, in other cases, a sum not exceeding the amount of the excess profits tax that would have been avoided if the return made had been accepted as correct. Alternatively, on conviction before a Magistrate, failure to make the return involves a fine which may extend to Rs. 500, with a further fine which may extend to Rs. 50 for every day during which the default continues, and a false return is punishable with simple imprisonment which may extend to six months, or with a fine which may extend to Rs. 1,000, or with both.

2. The penalty for entering into any fictitious or artificial transaction, or for carrying out any fictitious or artificial operation for the purpose of reducing any excess profits which are or would be chargeable to excess profits tax, is in addition to such transaction or operation being treated as null and void for excess profits tax purpose, a sum not exceeding the tax evaded or sought to be evaded.

**FORM E. P. 3.****Excess Profits Tax**

NOTICE UNDER SUB-SECTION (2) OF SECTION 14 A OF THE EXCESS  
PROFITS TAX ACT 1940 (XV OF 1940)  
EXCESS PROFITS TAX OFFICE DATED THE 19

To

Whereas a Notice under sub-Section (1) of Section 13 of the Excess Profits Tax Act 1940 (XV of 1940) in respect of chargeable accounting period commencing 19 and ending 19 has been Served upon you on , I—hereby give you notice of my intention to make a provisional assessment in accordance with the provisions of Sub-Section (3) of Section 14 A. of the 2nd Act as follows :—

If you object to the amount of such proposed provisional assessment you should within fourteen days of the receipt of the notice deliver to me a statement of your objections thereto.

**FORM E. P.****Excess Profits Tax**

NOTICE OF DEMAND UNDER RULE 5 OF THE EXCESS PROFITS  
TAX RULES READ WITH SECTION 29 OF THE INDIAN  
INCOME-TAX ACT, 1922.

To

1. Take notice that for the chargeable accounting period 19 and ending 19 ,

\*the sum of Rs.                      Excess Profits Tax, as specified overleaf, has been determined to be payable by you.

\*a deficiency of profits of Rs.                      has been computed as shown overleaf.

2. \*You are required to pay the amount on or before 19

\*Treasury Officer

Sub-Treasury Officer

to the Agent, Imperial Bank of India

when you

Governor, Reserve Bank of India

will be granted a receipt.

3. If you do not pay the amount on or before 19 , you will be liable to a penalty, under Section 15 (1) of the Indian Income-tax Act, 1922, as applied to Excess Profits Tax by Section 21 of the Excess Profits Tax Act, 1940, which may be as great as the Excess Profits Tax due from you.

4. If you intend to appeal against the assessment, or the amount of the deficiency, you may present an appeal under subsection (1) of Section 17 of the Excess Profits Tax Act, 1940 to the Appellate Assistant Commissioner of Excess Profits Tax at within 4 days of the receipt of this notice in the form prescribed under subsection (3) of Section 17 duly stamped and verified as laid down in that form. A copy of the form may be obtained from this office.

5. A copy of my assessment order and of my computations of the standard profits and the profits of the chargeable accounting period is enclosed herewith.

Excess Profits Tax Office.

Address.

Dated 19 .

### Assessment Form.

ASSESSMENT UNDER SECTION 14 OF THE EXCESS PROFITS  
TAX ACT, 1940, FOR THE CHARGEABLE ACCOUNTING PERIOD  
COMMENCING 19 , AND ENDING 19 (MONTHS).

Name of assessee

Status

Circle.

Address

No. in General Index.

No. in E. P. T. Register.

1 Profits of the chargeable accounting period as computed for Excess profits Tax purposes. Rupees.

Profits of period or months where standard profits available—

(i) as computed for excess profits tax purposes or Rs.....

(ii) as determined by the Board of Referees under Section 6 (3) or

(iii) as determined by Central Board of Revenue under Section 26 (1)

3. Proportion of (2) appropriate to chargeable accounting period of months ... Rs.....

4. Average amount of capital employed during chargeable accounting period. ... Rs.....

5. Average amount of capital employed during standard period ... Rs.....

\*Delete inappropriate words

6.	Increase (+) or decrease (—) in the average capital employed during chargeable accounting period ...	Rs.....
7.	Statutory percentage of % per annum thereon for months	Rs.....
8.	Adjusted standard profits in relation to chargeable accounting period (3), (+) or—(7) or	Rs .....
9.	Where percentage standard chosen under the second proviso to Section 6 (1) % per annum for ... the chargeable accounting period of . . . months on the average capital of Rs. employed during the chargeable accounting period or	.....
10.	Where minimum standard of 36,000 applicable due proportion thereof	.....
11.	Excess Profits (+) or Deficiency (—)	at 50% at 66 $\frac{2}{3}$ % Rs..... Rs.....
12.	Excess Profits assessable	Rs.....
13.	Deficiency of Profits set off	Rs.....
14.	Net excess profits assessed	Rs.....
15.	Excess Profits Tax	Rs.....
16.	Excess Profits Tax, total	Rs.....
17.	Double Excess Profits Taxation relief	Rs.....
18.	Net amount of E.P.T. payable	Rs.....
19.	Add (i) penalty under Section 10 (3) (ii) penalty under Section 16	Rs..... Rs.....
TOTAL SUM PAYABLE (in figures as well as) words)		
	Rs. as (figures) Rs.	
	annas (words).	
Dated	19	

### FORM E. P. 4-7 Excess Profits Tax.

#### ASSESSMENT ORDER AND NOTICE OF DEMAND IN RESPECT OF PROVISIONAL ASSESSMENT MADE UNDER SUB-SECTION (3) OF SECTION 14 A OF THE EXCESS PROFITS TAX ACT (1940) (XV 1940)

To

1. Take notice that following the issue on the 19 of notice under sub-section (2) of Section 14 A of the Excess Profits Tax Act, 1940 (XV of 1940) of my intention to make a provisional assessment in respect of your estimated liability to Excess Profits Tax for the chargeable accounting period commencing 19 and ending 19. I having taken into account your statement of objection thereto dated 19, have determined provisionally the excess profits of such period to be the sum of Rs.....and that the Excess Profits tax payable in respect thereof is

for the period commencing			
and ending	19	Rs.	@ 50 %
and for the the period commencing		=Rs.	
and ending	19	Rs.	of 66 $\frac{2}{3}$ %
		=Rs.	

Total .....

(2) You are required to pay the amount on or before 19 to Treasury Officer/Sub-Treasury Officer/Branch of the Imperial Bank of India/Reserve Bank of India, at when you will be granted a receipt

If you do not pay the amount on or before 19 you will be liable to a penalty under S. 46 (1) of Indian Income-Tax Act as applied to Excess Profits Tax by Section 21 of Excess Profits Tax Act 1940 which may be as great as the amount of the excess Profits tax hereby assessed

Dated

19

Excess Profits Tax Officer  
Address

**FORM E. P. 6.****Penalty Imposed in Default of Payment of  
Excess Profits Tax.**

NOTICE OF DEMAND UNDER SECTION 29 OF THE  
INDIAN INCOME-TAX ACT, 1922, AS APPLIED TO  
EXCESS PROFITS TAX BY SECTION 21 OF THE  
EXCESS PROFITS TAX ACT, 1940.

To

Whereas you have not paid the sum of Rs.                      Excess Profits  
Tax, assessed for the chargeable accounting period commencing  
19                      , and ending 19                      , on the prescribed date  
viz..... , in accordance with the Notice of Demand served on  
you on 194                      , you are hereby informed that a penalty of  
Rs.                      has been imposed upon you under Section 45 (1) of  
the Indian Income-tax Act, 1922, which is applied to Excess Profits  
Tax by virtue of Section 21 of the Excess Profits Tax Act 1940.

2. You are further warned that unless the total amount due  
including this penalty, is paid on or before 19                      , a further penalty,  
will be imposed on you (and a warrant or distress will be issued for  
the recovery of the whole amount due with costs)

3. You are required to pay the amount to the  
Treasury Officer

Sub-Treasury Officer

Agent, Imperial Bank of India at

when you will be granted a

Governor, Reserve Bank of India  
receipt.

4. If you intend to appeal against this penalty you may  
present an appeal under sub-section (1) of Section 17 of the Excess  
Profits Tax Act, 1940, to the Appellate Assistant Commissioner  
of Excess Profits Tax at                      within 45 days of the receipt of this  
notice, in the form prescribed under sub-section (3) of Section 17  
duly stamped and verified as laid down in that form. A copy  
of the form may be obtained from this office.

*Excess Profits Tax Officer.*

Dated 19.....

*Address.*

**FORM E. P. 8A.**

FORM OF APPEAL UNDER THE PROVISIO TO SECTION 8 (5) OF THE  
EXCESS PROFITS TAX ACT, 1940.

To

THE BOARD OF REFEREES,

The                      day of                      19

The petition of                      of                      sheweth as follows :—

1.                      transferred as a going concern on 19                      , a part  
of his business to

2. Under the provisions of sub-section 5 of Section 8 of the Act the  
Excess Profits Tax Officer has

\*(a) apportioned the Profits of the said business for the "previous  
years" from which under Section 6 (1) the standard periods of the business  
retained by                      and of the business  
transferred to                      may be selected as  
follows :—

\*Insert particulars of the periods in respect of which the appeal is made



Business      Business  
retained.      transferred.  
Rs.

" Previous year " ended      19  
" Previous year " ended      19  
" Previous year " ended      19  
" Previous year " ended      19

\*(b) apportioned the average capital employed in the said business during those "Previous years" as follows:—

Business      Business  
retained.      transferred.  
Rs.              Rs.

" Previous year " ended      19  
" Previous year " ended      19  
" Previous year " ended      19  
" Previous year " ended      19

3. Your petitioner objects to the apportionment made as set out above, as follows:—

\* (a) Profits of the " previous year " ended      19  
      Profits of the " previous year " ended      19  
      Profits of the " previous year " ended      19  
      Profits of the " previous year " ended      19  
\* (b) Average capital employed during the  
      " previous year " ended      19  
      Average capital employed during the  
      " previous year " ended      19  
      Average capital employed during the  
      " previous year " ended      19  
      Average capital employed during the  
      " previous year " ended      19

4. Your petitioner therefore requests that the apportionment so specified may be modified to the extent set out in the Grounds of Appeal.

Signed.

### GROUND OF APPEAL.

#### Form of Verification.

I, \_\_\_\_\_, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Signed.

### FORM E. P. 9.

FORM OF APPEAL AGAINST A DECISION UNDER SECTION 8 OF THE EXCESS PROFITS TAX ACT OTHER THAN A DECISION UNDER THE PROVISIO TO SUB-SECTION (5) OR SUB-SECTION (8) OF SECTION 8.

To

THE APPELLATE ASSISTANT COMMISSIONER OF  
EXCESS PROFITS TAX,

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
The petition of \_\_\_\_\_ of \_\_\_\_\_ sheweth as follows:—

1. Your petitioner is not satisfied with the decision of the

Excess Profits Tax Officer made under sub-section (2)  
sub-section (3)  
sub-section (4) of section 8 of  
sub-section (6)  
sub-section (7)

the Excess Profits Tax Act, 1940.

\* Insert particulars of the periods in respect of which the appeal is made.  
+ Inappropriate items to be deleted.

2. Your petitioner received <sup>\*</sup> a copy of the order \_\_\_\_\_ on 19 .  
an intimation of the said decision

8. For the reasons given in the grounds of appeal, your petitioner prays that the decision of the Excess Profits Tax Officer may be modified so as to grant your petitioner the relief prayed for.

Signed.

### GROUND S OF APPEAL.

Verification.

### FORM E. P. 10.

#### FORM OF APPEAL AGAINST ASSESSMENT UNDER SECTION 14 (1) OF THE EXCESS PROFITS TAX ACT, 1940.

To

THE APPELLATE ASSISTANT COMMISSIONER OF  
EXCESS PROFITS TAX,

The \_\_\_\_\_ day of \_\_\_\_\_ 19 .  
The petition of \_\_\_\_\_ of \_\_\_\_\_ sheweth as follows :—  
1. Under Section 14 (1) of the Excess Profits Tax Act, \_\_\_\_\_ profits  
profits liable to Excess Profits Tax of your petitioners business for  
deficiency of profits \_\_\_\_\_  
the chargeable accounting period commencing \_\_\_\_\_ 19 , and  
ending \_\_\_\_\_ 19 , have \_\_\_\_\_ been determined to be Rs. \_\_\_\_\_  
\_\_\_\_\_ has \_\_\_\_\_  
\_\_\_\_\_ \* notice of demand

2. The intimation of the amount of deficiency of profits attached hereto,  
intimation of the order of refunds \_\_\_\_\_  
was served upon your petitioner on \_\_\_\_\_ 19 .

3. Your petitioner <sup>\*</sup> complied with \_\_\_\_\_ the terms of the notice (s) under  
did not comply with \_\_\_\_\_  
sub-section (1) and/or sub-section (2) of Section 13 of the Excess Profits  
Tax Act.

4. Your petitioner's claim that during the said chargeable accounting  
period <sup>\*</sup> the profits liable to Excess Profits Tax \_\_\_\_\_  
the deficiency of profits \_\_\_\_\_ of your petitioner's business  
amounted to Rs. \_\_\_\_\_

5. Your petitioner therefore prays that  
<sup>\*</sup> the business may be assessed accordingly.  
the deficiency of profits may be determined accordingly  
he may be granted a refund of Rs. \_\_\_\_\_

Signed.

### GROUND S OF APPEAL

Verification

### FORM E. P. 11.

#### FORM OF APPEAL TO THE APPELLATE ASSISTANT COMMISSIONER AGAINST IMPOSITION OF PENALTY UN- DER SECTION 10 OR SECTION 16 OF THE EXCESS PROFITS TAX ACT, 1940 OR UNDER SECTION 46 (1) OF THE INDIAN INCOME-TAX ACT, 1922 'AS APPLIED TO EXCESS PROFITS TAX BY SECTION 21 OF THE EXCESS PROFITS TAX ACT, 1940

To

THE APPELLATE ASSISTANT COMMISSIONER OF

EXCESS PROFITS TAX,

The

day of

19 .

<sup>\*</sup>Inappropriate items to be deleted.

The petition of  
sheweth as follows :—

of

1. A penalty of Rs. , for which the notice of demand  
attached herewith was received on 19 , has been imposed

\* Section 10 of the Excess Profits Tax Act, 1940.

on your petitioner under Section 16 of the Excess Profits Tax Act, 1940.

Section 46 (1) of the Indian Income Tax Act, 1922.

2. \*Your petitioner did not enter into any artificial transaction  
for the purposes of avoiding the excess profits tax.

\*Your petitioner had reasonable cause for not furnishing the  
return under Sub-section (1) of Section 13 or for not complying with  
the notice under sub-section (2) of Section 13.

\*Your petitioner did not conceal particulars of the profits arising  
or capital employed in the business or deliberately furnish inaccurate  
particulars thereof.

\*Your petitioner was unable to pay the tax within time for the  
reasons set forth below.

3. For the reasons given in the Grounds of Appeal your  
petitioner therefore prays that the order of the Excess Profits Tax  
Officer imposing the penalty may be set aside.

Signed.

### GROUND OF APPEAL.

*Verification*

### FORM E. P. 12.

### FORM OF APPEAL AGAINST THE AMOUNT OF RELIEF OR REFUND OR AGAINST REFUSAL TO GRANT RELIEF OR REFUND UNDER SECTION 7 OR SECTION 11 OF THE EXCESS PROFITS TAX ACT, 1940.

To

THE APPELLATE ASSISTANT COMMISSIONER OF

EXCESS PROFITS TAX,

The day of 19 .

The petition of of sheweth as follows :—

\* 1. Your petitioner applied to the Excess Profits Tax Officer  
for relief under Section 7 of the Excess Profits Tax Act in respect of  
a deficiency of profits amounting to Rs. occurring in the  
chargeable accounting period commencing 19 . and ending  
19 .

\*Your petitioner claimed, under Section 11 of the Excess Profits  
Tax Act, relief amounting to Rs. in respect of excess profits  
taxation imposed in upon the profits of your petitioner's  
business.

2. The Excess Profits Tax Officer has by his order, dated the of  
which a copy is attached rejected the claim for relief  
granted relief on only Rs.

Intimation of this order was received by your petitioner on

3. Your petitioner for the reasons stated in the Grounds of  
Appeal prays that the full relief due to the petitioner may be  
granted.

Signed.

### GROUND OF APPEAL.

*Verification*

\* Delete inappropriate words.

FROM OF APPEAL TO THE COMMISSIONER OF EXCESS  
PROFITS TAX AGAINST ENHANCEMENT OF TAX OR  
PENALTY OR IMPOSITION OF PENALTY BY THE  
APPELLATE ASSISTANT COMMISSIONER.

**Signed.**

### Verification.

†Where a standard period of only one "previous year" is chosen delete this sub-paragraph.

assessment for the year ending 31st March , being the period commencing 19 , and ending 19 .

3. That the profits of such " standard period " computed in accordance with the provisions of the First Schedule to the Act are Rs.

4. That such profits were less than might at the commencement of such standard period have been reasonably expected owing to the following cause (s) :—

5. That the average amount of capital employed in the business during the said standard period, computed in accordance with the provisions of the Second Schedule to the Act was Rs.

6. The applicant therefore applies that his case be referred to the Board of Referees under Section 6 (3) of the Act for a direction that the standard profits of the business shall be computed as if the profits during the standard period were such greater amount as they may think just.

7. The applicant further applies that such direction shall not be limited to the statutory percentage of the average amount of the capital employed in the business because it is just that a greater amount should be allowed in view of the following specific cause (s) peculiar to the business.

8. Copies of my computations showing how the sums referred to in paragraphs 4 and 6 are arrived at are attached hereto.

Signature of the applicant.

*Verification*

### FORM E. P. 15.

#### Excess Profits Tax Act, 1940

#### FORM OF APPLICATION UNDER SECTION 26 (1).

To

THE CENTRAL BOARD OF REVENUE,

The

day of

19 .

The application of of sheweth as follows :—

1. That the applicant has been served with a notice under Section 13 (1) of the Act on 19 , and that the Return required by the said notice \* is due on 19 .  
\* has been duly furnished to the excess Profits Tax Officer.

2. That the standard period elected by the applicant under Section 6 (2) of the Act is the " previous year " as determined, under Section 2 (11) of the Indian Income-tax Act, 1922, for the purposes of the income-tax assessment for the year ending 31st March , being the period commencing 19 , and ending 19 ,

\* and the " previous year " as determined, under Section 2 (11) of the Indian Income-tax Act, 1922, for the purpose of the Income-tax assessment for the year ending 31st March , being the period commencing 19 , and ending 19 .

\* Inappropriate words to be deleted.

3. That the profits of such "standard period" computed in accordance with the provisions of the First Schedule to the Act are Rs.

4. That special circumstances, which render it inequitable that the standard profits of the applicant's business shall be computed as set out in paragraph 3, exist, that is to say :—

5. That the average amount of capital employed in the business during the chargeable accounting period commencing 19 , and ending 19 , computed in accordance with the provisions of the Second Schedule to the Act was Rs.

6. \* That application has been made to the Board of Referees under Section 6 (3) of the Act, and

\* that no relief has been granted by that Board

\* that insufficient relief has been granted by that Board increasing the said standard profits to Rs. only.

7. The applicant therefore applies that under Section 26 (1) of the Act the Central Board of Revenue may direct that the standard profits of the business shall be computed as if the profits of the standard period were such greater amount as they think just.

8. The applicant further applies that such direction shall not be limited to the statutory percentage of the average amount of the capital employed in the business because it is just that a greater amount should be allowed in view of the following specific cause (s) peculiar to the business :—

9. Copies of my computations showing how the sums referred to in paragraphs 3 and 5 are arrived at are attached thereto.

*Signature of the Applicant.*

*Verification.*

### FORM E. P. 16.

#### Excess Profits Tax Act, 1940.

#### FORM OF APPLICATION FOR SPECIAL ALLOWANCE UNDER THE PROVISIONS OF SECTION 26 (3) OF THE ACT, IN COMPUTING THE PROFITS OF BUSINESS DURING A CHARGEABLE ACCOUNTING PERIOD.

Name of applicant  
Address of applicant  
Business

The day of 19 .

TO THE CENTRAL BOARD OF REVENUE,

The applicant named above submits :—

1. that the profits of his business during the chargeable accounting period commenced 19 . and ended 19 , computed in accordance with the provisions of the First Schedule to the Act are Rs.

2. that such computation is inequitable owing to the following circumstances :

\* (i) the suspension or postponement, as a consequence of the present hostilities, or repairs or renewals ;

\* (ii) the provision of buildings, plant or machinery which will not be required for the purposes of the business after the termination of the present hostilities ;

\* (iii) difficulties in bringing into British India income arising outside British India where the country in which the income accrued prohibits or restricts by its law the remittance of money to British India, and loss in the remittance to British India of such income because of fluctuations in the rate of exchange between that country and British India ;

as shown in the statement of particulars set out below.

Signature of applicant.

### SCHEDULE OF PARTICULARS REQUIRED.

1†. In the case of suspension or postponement of repairs or renewals.

Nature of the repair or renewal.	Date when, but for the present hostilities, the repair or renewal would have been executed.	Estimated cost thereof as at that date.	Actual cost of repairs and renewals executed in the period constituting or including the chargeable accounting period.	Actual average expenditure on repairs and renewals during the five preceding years.
1	2	3	4	5
		Rs.	Rs.	Rs.

2\*. In the case of buildings, plant or machinery provided which, after the termination of hostilities, will not be required.

Description of each item.	Date when each item provided.	Cost of each item.	Reasons why each item will not be required after the termination of the present hostilities.
1	2	3	4
		Rs.	

3\*. In the case of difficulty in bringing into British India money arising in a country outside British India, by reason of the laws of that country restricting or prohibiting the remittance of money to British India.

Country in which income accrued.	Amount of income accrued and not remitted (in currency of that country).	Amount thereof assessed for income-tax purposes in British India.	Estimated ultimate loss owing to non-remittance.
1	2	3	4
		Rs.	Rs.

\*Delete inappropriate items.

†Particulars to be entered in appropriate spaces only.



4\*. In the case of loss and remittance owing to fluctuations in rates of Exchange.

Country in which income accrued.	Amount of income accrued (in currency of that country).	Amount realized by remittance thereof.	Amount as assessed to Indian income-tax.	Deduction claimed in respect of loss in remittances
1	2	3	4	5
		Rs.	Rs.	Rs.

I, \_\_\_\_\_, the applicant in this application, do declare that the particulars above stated are true to the best of my information and belief.

Signature.

### FORM E. P. 16-A

#### Excess Profits Tax Act, 1940.

*Form of application for Special Allowance, under the provisions of Section 26 (3) [Head (d)] of the Act, in computing the Profits of a Business during a chargeable accounting period.*

Name of the applicant  
Address of the applicant  
Business

To \_\_\_\_\_ The \_\_\_\_\_ day of \_\_\_\_\_ 19 .

#### The Central Board of Revenue

The applicant named above submits :—

1 That the profits of his business during the chargeable accounting period commenced \_\_\_\_\_ 19 , and ended \_\_\_\_\_ 19 .  
computed in accordance with the provisions of the first Schedule to the Act are Rs.

2. That such computation is inequitable owing to the following circumstances, namely :—

the business includes the winning of mineral or mineral oil, the winning of which is of exceptional importance for the prosecution of the war and that, during the chargeable accounting period above-mentioned, there was an increase in the output of such mineral or mineral oil which was essential in the national interest and which has had the effect of shortening the period during which, but for such increased output, the source of the mineral or mineral oil might have been expected to be exhausted ;

as shown in the statement of particulars set out on the back of this form.

Signature of applicant.

*Schedule of particulars required.*

1. Description of the minerals.
2. Description, including particulars of the area of the source of minerals.

## 3. Output of the minerals :—

(a) in the standard period being :—

(i) the period commencing	19	,
and ending	19	,
and		

* (ii) the period commencing	19
and ending	19

(b) in the chargeable accounting period :—

(i) commencing	19
and ending	19

* (ii) commencing	19
and ending	19

* (iii) commencing	19
and ending	19

4. The date by which, but for the increased wartime output it is estimated that the source of the minerals would have been exhausted.

5. The fact upon which applicant bases his claim that the winning of the minerals was of exceptional importance for the prosecution of the present war and that the increased output was essential in the national interest.

I, \_\_\_\_\_ the applicant in this application, do declare that particulars above stated are true, to the best of my information and belief.

Signature.

## FORM E. P. 17

APPLICATION FOR REFUND OF EXCESS PROFITS  
TAX IN RESPECT OF DEFICIENCY OF PROFITS.

To

The Excess Profits Tax Officer,

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby declare that for the chargeable accounting period commencing 19\_\_\_\_, and ending 19\_\_\_\_, the excess profits arising from the business of \_\_\_\_\_ were determined at Rs. \_\_\_\_\_ and charged to tax amounting to Rs. \_\_\_\_\_. The tax was paid on 19\_\_\_\_.

I further declare that during the chargeable accounting period commencing 19\_\_\_\_, and ending 19\_\_\_\_, there was a deficiency of profits in the same business amounting to Rs. \_\_\_\_\_.

I therefore pray for a provisional fund of Rs. \_\_\_\_\_. The Return prescribed under Section 13 (1) of Act showing the said deficiency of profits is attached hereto.

Cated the 19\_\_\_\_.

Signature.

Verification.

\*Delete if inapplicable.

## FORM E. P. 18.

APPLICATION FOR REFUND IN RESPECT OF  
DOUBLE EXCESS PROFITS TAXATION.

To

The Excess Profits Tax Officer,

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby declare that excess profits arising from the business of \_\_\_\_\_ for the chargeable accounting period commencing \_\_\_\_\_ 19\_\_\_\_, and ending \_\_\_\_\_ 19\_\_\_\_, have been charged to excess profits tax both in British India and in \_\_\_\_\_. Official receipts are attached for 2 excess profits tax of Rs. \_\_\_\_\_ paid on \_\_\_\_\_ 19\_\_\_\_, and for British Indian excess profits tax of Rs. \_\_\_\_\_ paid on \_\_\_\_\_ 19\_\_\_\_.

I therefore pray for relief amounting to Rs. \_\_\_\_\_ under

(a) sub-section 1 of Section 11 of the Act in accordance with the Notification of the Central Government under that section.

(b) sub-section 2 of that section.

[Delete (a) or (b), whichever is inapplicable.]

Dated the \_\_\_\_\_

19\_\_\_\_.

Signature.

Verification.

## FORM E. P. 28.A.

## Excess Profits Tax Act, 1940.

*Form of appeal against modifications of the computations of profits and capital made by the Excess Profits Tax Officer under sub-section (8) of Section 8 of the Excess Profits Tax Act, 1940.*

To

THE BOARD OF REFEREES,  
C/o THE EXCESS PROFITS TAX OFFICER,

The \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

The petition of \_\_\_\_\_ of \_\_\_\_\_

sheweth as follows :—

1. Your petitioner's business carried on by him during the chargeable accounting period commencing \_\_\_\_\_ 19\_\_\_\_, and ending \_\_\_\_\_ 19\_\_\_\_, \*has by virtue of subsection \*(2)/\*(3) been deemed not to have been discontinued \*is treated, by virtue of sub-section (4), as if it had been in existence throughout the period during which there was in existence another business

\*is treated, by virtue of sub-section (5), as a continuation of an other business \*your petitioner, who has carried on the business after its transfer to him on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, is treated, by virtue of sub-section (8) as having carried on the business as from a date before such transfer.

1 The word provisional should be deleted except where a deficiency of profits arising after the end of March 1941 is to be set off against profits arising before the end of March 1941.

2 Insert name of Country or State in which tax paid.

\*Inappropriate words to be deleted.

2. Your petitioner was served on \_\_\_\_\_ with a notice  
 \*of the modification made by the Excess Profits Tax Officer  
 \*of the refusal of the Excess Profits Tax Officer to make  
 modifications under sub-section (3) of Section 8 of the Excess Profits  
 Tax Act, 1940.

3. For the reasons given in the grounds of appeal your petitioner  
 is not satisfied with \*the modifications aforesaid \*the refusal  
 aforesaid.

4. Your petitioner, therefore, prays that the <sup>modifications</sup> ~~refusal~~ above-  
 mentioned may be \* <sup>set aside</sup> ~~amended~~ so as to grant your petitioner the relief  
 prayed for.

### GROUND OF APPEAL.

*Verification.*

### FORM E. P. 29-A.

#### Excess Profits Tax Act, 1940.

*Form of appeal against the determination of the Excess Profits Tax Officer  
 Under Rule 11 of the First Schedule to the Excess Profits Tax Act, 1940.*

To

THE BOARD OF REFEREES,

C/o THE EXCESS PROFITS TAX OFFICER,

The \_\_\_\_\_ day of \_\_\_\_\_ 19 .

The petition of \_\_\_\_\_ of

sheweth as follows :—

1. Your petitioner is not satisfied with the determination of the  
 Excess Profits Tax Officer under Rule 11 of the First Schedule to the  
 Act, that the sum of Rs. \_\_\_\_\_ allowable, apart from the provisions  
 of that rule as a deduction in computing the profits of the accounting  
 period commencing \_\_\_\_\_ 19 and ending \_\_\_\_\_ 19 , does not  
 represent a sum reasonable and properly attributable to that account-  
 ing period and that it shall be treated as attributable as to

(i) the sum of Rs. \_\_\_\_\_ to the accounting period commencing  
 19 and ending 19

\*and (ii) the sum of Rs. \_\_\_\_\_ to the accounting period  
 commencing \_\_\_\_\_

19 and ending 19

\*and (iii) the sum of Rs. \_\_\_\_\_ to the accounting period  
 commencing \_\_\_\_\_

19 and ending 19

2. Your petitioner received a copy of the order notifying the  
 said determination on \_\_\_\_\_ 19 .

\* Inappropriate word to be deleted.

3. For the reasons given in the grounds of appeal, your petitioner prays that the determination of the Excess Profits Tax Officer may be <sup>\*set aside</sup><sub>\*amended</sub> so as to grant your petitioner the relief prayed for.

### GROUND OF APPEAL

*Verification.*

### FORM E. P. 30.

#### Excess Profits Tax Act, 1940.

*Form of application for allowance in respect of inherently unproductive assets under Rule 7 of the Second Schedule*

To

EXCESS PROFITS TAX OFFICER,

The                      day of                      19   .

The application of                      of                      sheweth as follows:—

1. That the applicant has been served with a notice under Section 13 (1) of the Act on                      19   and that the Return required by the said notice

\* is due on                      194   .

\* has been duly furnished to the Excess Profits Tax Officer.

2. That the standard period elected by the applicant under Section 6 (2) of the Act is the “ previous year ” as determined under Section 2 (11) of the Indian Income-tax Act, 1922, for the purposes of the income-tax assessment for the year ending 31st March 19, being the period commencing                      19   and ending                      19   \* and the “ previous year ” as determined under Section 2 (11) of the Indian Income-tax Act, 1922, for the purposes of the income-tax assessment for the year ending 31st March 19   . being the period commencing                      19   , and ending                      19   .

3. (a) That certain assets, namely                      were inherently unproductive during the whole or some part of the said standard period ;

(b) that the cost of those assets was Rs.                      ;

(c) that the average capital employed in the business during the standard period in respect of those assets computed in accordance with Rules 1 to 6 of the Second Schedule to the Act was Rs                      ;

(d) that the circumstances, by reference to which applicant claims that the assets were inherently unproductive, are

4. The applicant therefore applies that, under Rule 7 of the Second Schedule to the Act, the Central Board of Revenue may direct that the average capital employed in the applicant's business during the standard period shall be computed as if the assets abovementioned had not been assets of the business from                      19   to                      19   .

\* Inappropriate words to be deleted.

5. A copy of my computation showing how the sum referred to in paragraph 3 (c) is arrived at is attached hereto.

Signature of applicant.

*Verification*

**FORM E. P. 9 (T).**

**Form of Section 8 Excess Profits Tax Act Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, DELHI.

8 E. P. T. A.A. No. of 19 19 .†

*versus*

APPELLANT.

RESPONDENT

Province from which the appeal is filed.  
Excess Profits Tax Officer making the original order.  
Sub-section of section 8 under which the order was made and the substance of the order.  
Date of the original order.  
Appellate Assistant Commissioner determining the appeal.  
Whether the original order was confirmed, cancelled etc., on appeal.  
Date of the appellate order.  
Date on which the appellate order came to the knowledge of the appellant.  
Postal address on which the appellant undertakes to receive notice.  
Postal address on which notices should be issued to the respondent.  
Relief claimed in appeal.

**GROUND OF APPEAL.**

Signed  
(Appellant.)

Signed  
(Authorised representative, if any.)

*Verification*

N.B.—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

† (To be filled in by the office).  
\* (To be filled in by the office).

**FORM E. P. 10/13 (T).****Form of Section 14 (1) Excess Profits Tax Act Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, DELHI..

*versus*

APPELLANT.

RESPONDENT

Province from which the appeal is filed.  
 Whether the terms of notices under sub-sections (1) and (2) of section 13 were complied with.  
 Excess Profits Tax Officer making the original order.  
 Profits assessed to excess profits tax.  
 Deficiency determined.  
 Amount of net tax determined.  
 Date of receipt of notice of demand.  
 Date of receipt of the copy of the order determining deficiency of profits.  
 Date of intimation of the order of refund.  
 Appellate Assistant Commissioner determining the appeal.  
 Profits held assessable to excess profits tax by the Appellate Assistant Commissioner.  
 Deficiency determined by the Appellate Assistant Commissioner.  
 Refund, if any, made by the Appellate Assistant Commissioner.  
 Enhancement of profits and tax, if any, made by the Appellate Assistant Commissioner.  
 Date of the appellate order.  
 Date on which the appellate order came to the knowledge of the appellant.  
 Postal address on which the appellant undertakes to receive notices.  
 Postal address on which notices should be issued to the respondent.  
 Relief claimed in appeal.

## GROUNDS OF APPEAL

Signed

(Appellant.)

Signed

(Authorised representative, if any.)

*Verification.***N.B.—1. Strike out unnecessary columns.**

2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

\*(To be filled in by the office).



**FORM E. P. 11 (1) (T).**

**Form of Section 46 (1) Penalty Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, DELHI.

46 (1) E.P.T.A A. No. of 19 -19

*versus.*

APPELLANT.

RESPONDENT.

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Province from which the appeal is filed.  
 Officer making the original order.  
 Amount of tax determined.  
 Amount of tax in arrears.  
 Period during which default continued.  
 Amount of the penalty.  
 Date of receipt of notice of demand.  
 Appellate Assistant Commissioner determining the appeal.  
 Whether the original order was confirmed, or cancelled or varied on appeal, and if varied in what respect.  
 Date of the appellate order.  
 Date on which the appellate order came to the knowledge of the appellant.  
 Postal address on which on the appellant undertakes to receive notices.  
 Postal address on which notices should be issued to the respondent.  
 Relief claimed in appeal.

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**GROUND'S OF APPEAL**

Signed

(Appellant)

Signed

(Authorised representative, if any).

*Verification.*

- N.B.—1.** Strike out unnecessary columns.
2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.
3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

**FORM E. P. 11 (T).**

**Form of Section 10 Excess Profits Tax Act Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, DELHI,

10 E.P.T.A.A. No. of 19 19

*versus.*

\* (To be filled in by the office).

**APPELLANT.****RESPONDENT.**

Province from which the appeal is filed.  
 Excess Profits Tax Officer making the original order.  
 Date of receipt of notice of demand.  
 Amount of the penalty.  
 Amount of the tax evaded or sought to be evaded as found by the Excess Profits Tax Officer.  
 Appellate Assistant Commissioner determining the appeal  
 Whether the original order was confirmed, cancelled or varied on appeal, and if varied in what respect.  
 Date of the appellate order.  
 Date on which the appellate order came to the knowledge of the appellant.  
 Postal address on which the appellant undertakes to receive notices.  
 Postal address on which notices should be issued to the respondent.  
Relief claimed in appeal.

**GROUND OF APPEAL.**

Signed  
 (Appellant.)

Signed  
 (Authorised representative, if any.)  
*Verification.*

- N.B.*—1. Strike out unnecessary columns.  
 2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.  
 3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

**FORM E P. 11/13 (T.).****Form of Section 16 Excess profits Tax Act Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, DELHI.

*versus***APPELLANT.****RESPONDENT.**


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Province from which the appeal is filed.  
 Officer making the original order.  
 Date of receipt of notice of demand.  
 Amount of the penalty.  
 Reason for imposing the penalty.  
 Appellate Assistant Commissioner determining the appeal.  
 Whether the original order was confirmed, cancelled or varied on appeal, and if varied in what respect.  
 Date of the appellate order.  
 Date on which the appellate order came to the knowledge of the appellant.  
 Postal address on which the appellant undertakes to receive notices.  
 Postal address on which notices should be issued to the respondent.  
Relief claimed in appeal.

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\*(To be filled in by the office).

# **GROUND S OF APPEAL.**

Signed  
(Appellant).

Signed  
(Authorised representative, if any.)

*Verification.*

- N.B.*—1. Strike out unnecessary columns.
2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.
3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

## **FORM E. P. 12 (T)**

### **Form of Section 7 Excess Profits Tax Act Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, DELHI.

7 E P. T. A. A. No.                      of 19        -19 .\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed. Chargeable accounting period. Excess profits Tax Officer who made the original order. Deficiency of Profits in respect of which relief was claimed before the Excess Profits Tax Officer. Repayment or refund claimed. Deficiency determined. Repayment or refund allowed. Date of receipt of the copy of the order determining the deficiency. Date of receipt of the intimation of the order granting or refusing to grant relief by repayment or otherwise. Appellate Assistant Commissioner determining the appeal. Deficiency found by the Appellate Assistant Commissioner. Repayment or refund ordered by the Appellate Assistant Commissioner. Date of the appellate order. Date on which the appellate order came to the knowledge of the appellant. Postal address on which the appellant undertakes to receive notices. Postal address on which notices should be issued to the respondent. Relief claimed in appeal.	
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## **GROUND S OF APPEAL.**

Signed.  
(Appellant.)

Signed.

(Authorised representative, if any.)

\*(To be filled in by the office).

*Verification.**N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

**FORM E, P. 12 (1) (T.).****Form of Section 11 Excess Profits Tax Act Appeal.**

IN

THE (INCOME-TAX) APPELLATE TRIBUNAL, DELHI.

11 E. P. T. A. A. No.                      of 19      19 .\*

*versus*

APPELLANT.

RESPONDENT.

Province from which the appeal is filed.

Chargeable accounting period.

Excess Profits Tax Officer who made the original order.

Relief claimed before the Excess Profits Tax Officer.

Grounds on which relief was claimed before the Excess Profits Tax Officer.

Relief granted by the Excess Profits Tax Officer.

Date of receipt of the intimation of the order granting or refusing to grant relief.

Appellate Assistant Commissioner determining the appeal.

Relief granted by the Appellate Assistant Commissioner.

Date of the Appellate Order.

Date on which the appellate order came to the knowledge of the appellant.

Postal address on which the appellant undertakes to receive notices.

Postal address on which notices should be issued to the respondent.

Relief claimed in appeal.

## GROUNDS OF APPEAL.

Signed.

(Appellant.)

Signed.

(Authorised representative, if any.)

*Verification**N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.

3. The appeal must be accompanied by a Treasury receipt for Rs. 100.

\* (To be filled in by the office)

FORM E. P. 14 (T)

Form of Section 10-A Excess Profits Tax Act Appeal.

IN  
THE (INCOME-TAX) APPELLATE TRIBUNAL, NEW DELHI.  
10-A. E P. T. A. A. No. of 19 19 .\*

*versus*

APPELLANT RESPONDENT

Province from which the appeal is filed. Excess Profits Tax Officer making the order. Substance of the order made under Section 10-A. Date of the order. Date on which the order of assessment affected by such adjustment was served on the appellant. Postal address on which the appellant undertakes to receive notices. Postal address on which notices should be issued to the respondent. Relief claimed in appeal.	
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GROUND'S OF APPEAL.

Signed.  
(Appellant.)  
Signed.  
(Authorised representative, if any.)

Verification

I,  
the appellant do hereby declare that what is stated above is true to the best of my information and belief. Verified to-day the day of at Signed. ( )

- N.B.—1. Strike out unnecessary columns.  
2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.

\*FORM E. P. 15 (T)

Form of Rule 12, Schedule I, Excess Profits Tax Act Appeal

IN  
THE (INCOME-TAX) APPELLATE TRIBUNAL, NEW DELHI  
12 R. E. P. T. A.A. No. of 19 19 .\*

*versus*

APPELLANT RESPONDENT

Province from which the appeal is filed. Excess Profits Tax Officer making the order. Substance of the order made under Rule 12. Date of the order. Date on which the order of assessment affected by such adjustment was served on the appellant. Postal address on which the appellant undertakes to receive notices. Postal address on which notices should be issued to the respondent. Relief claimed in appeal.	
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\* (To be filled in by the office)

\* Form E. P. 14 (T) and E. P. 15 (T) were newly added.

## GROUNDS OF APPEAL

Signed.

(Appellant.)

Signed. ( )

(Authorised representative, if any.)

*Verification*

I, the appellant do hereby declare that what is stated above is true to the best of my information and belief. Verified to-day the day of at

Signed.

*N.B.*—1. Strike out unnecessary columns.

2. The appeal must be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal to the Tribunal.

**EXCESS PROFITS DOUBLE TAXATION  
(INDIA AND THE UNITED KINGDOM) RULES.**

*Notification No. 18 dated the 21st June 1941.*

In exercise of the powers conferred by sub-section (1) of Section 11 of the Excess Profits Tax Act, 1940 (XV of 1940), the Central Government is pleased to make the following rules for the granting of relief in cases where, in respect of any profits of any business, Excess Profits Tax has been paid under that Act and Excess Profits Tax has been paid or, if there were no National Defence Contribution, would have been paid under the law in force in the United Kingdom.

1. These Rules may be cited as the Excess Profits Double Taxation (India and the United Kingdom) Rules.

2. In these Rules—

(i) the expression “Indian excess profits tax” means any excess profits tax payable in accordance with the provisions of the Excess Profits Tax Act, 1940 ;

(ii) “United Kingdom excess profits tax” means any excess profits tax payable under the law in force in the United Kingdom, or, where National Defence Contribution and not Excess Profits Tax is payable, the amount of Excess Profits Tax that would be payable if there were no National Defence Contribution ;

(iii) the expression “chargeable accounting period” has in British India the meaning assigned to it in sub-section (6) of Section 2 of the Excess Profits Tax Act, 1940, and in the United Kingdom the meaning assigned to it in Section 22 of the Finance (No. 2) Act, 1939.

3. Any reference in these Rules to the lower of the two rates shall, where the rates are equal, be construed as a reference to either of those rates.

4. These Rules shall have effect in respect of Indian excess profits tax charged for any chargeable accounting period in respect

of which, under the law in force in the United Kingdom, relief is to be given in respect of the payment of Indian Excess Profits Tax.

5. If the person carrying on a business in any chargeable accounting period proves to the satisfaction of the Excess Profits Tax Officer that he has paid, in respect of any profits of the business in that period, Indian excess profits tax and that he has also paid, in respect of those profits, United Kingdom excess profits tax—

(i) there shall be computed the amounts of excess profits tax which would be payable in British India and the United Kingdom respectively, if excess profits tax in the other country and National Defence Contribution in the United Kingdom were disregarded except in computing capital ;

(ii) the amount of relief to be given in British India shall bear the same proportion of the lesser of the amounts so computed as the amount so computed for British India bears to the sum of the two amounts so computed ;

(iii) if the amount so computed either for British India or for United Kingdom is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason), the amount so computed shall be recalculated and the relief in British India revised accordingly.

6. Where the chargeable accounting periods differ in British India and the United Kingdom, the tax chargeable for such periods shall be apportioned on a time basis to co-terminus periods as hereinafter defined, and relief shall be allowed under these Rules for those periods.

For this purpose, except so far as the Central Board of Revenue and the Board of Inland Revenue otherwise agree,—

(a) the first of the co-terminus periods shall commence on the first day on which double taxation commenced, and each succeeding co-terminus period shall commence at the expiration of the period immediately preceding ; and

(b) each of such co-terminus periods shall end at the end of the chargeable accounting period within which it commences, and, if the chargeable accounting periods differ for the purposes of the excess profits tax of the two countries, then at the end of that one of the chargeable accounting periods that ends first.

7. For the purpose of these Rules the liability to excess profits tax of a principal company of a group of interconnected companies shall be taken to be the liability of that company in respect of its own business only.

Where, however, excess profits tax payable in respect of the business carried on by a subsidiary company is assessed on the principal company, relief shall be allowed to the subsidiary company as if the excess profits tax liability attributable to the business of the subsidiary company were separately assessed upon that company.

8. Every application for a refund of excess profits tax under this Notification shall be made to the Excess Profits Tax Officer of the district or circle in which the applicant is chargeable to excess profits tax. Such application may be presented by the applicant in



**R. 6] EXCESS PROFITS TAX (BOARDS OF REFEREES) 329  
RULES, 1940**

person or by a duly authorised agent or may be sent by post, and shall be in the form prescribed in Rule 15 of the Excess Profits Tax Rules, 1940.

**EXCESS PROFITS TAX (BOARDS OF REFEREES)  
RULES, 1940.**

*Notification No. 2, dated the 28th September, 1940.*

In exercise of the powers conferred by sub-section (6) of Section 3 of the Excess Profits Tax Act, 1940 (XV of 1940), the Central Government is pleased to make the following rules, namely :—

1. These Rules may be called the Excess Profits Tax (Boards of Referees) Rules, 1940.

2. The Central Government shall, by notification in the Official Gazette, constitute a panel of persons eligible for appointment to a Board of Referees, and may in like manner, from time to time, nominate to, or remove from, the panel such persons as it thinks fit.

3. On receipt of an application under sub-section (3) of Section 6, or of an appeal under sub-section (5) or proviso to sub-section (8), of Section 8, or under rule 11 of Schedule 1, of the Excess Profits Tax Act, 1940, the Commissioner shall appoint, subject to the provisions of sub-section (5) of Section 3 of that Act, a Board of Referees from the panel constituted under rule 2, and refer the application or the appeal, as the case may be, for the decision of the Board.

4. (1) If the applicant, or in the case of an appeal, any of the parties to the appeal, objects to the appointment of any particular member or members of the Board of Referees, and the Commissioner is satisfied that there are reasonable grounds for such objection, he may in his discretion cancel the appointment of such member or members to the Board and appoint an eligible person or persons instead.

Provided that no objection taken after the date of the first meeting of the Board fixed for hearing the application or the appeal shall be considered by the Commissioner.

(2) The decision of the Commissioner under sub-rule (1) shall be final.

5. The members of a Board of Referees shall elect their own chairman.

6. (1) The decision of the Board of Referees on any matter shall be according to the view of the majority of members present and shall be embodied in a report which shall be signed by all the members present :

Provided that any dissenting member may record a minute of dissent.

(2) Where the Board of Referees is equally divided, the chairman shall have a casting vote.

(3) No decision of the Board of Referees which is signed by less than half the members constituting the Board shall be valid.

7. The proceedings of a Board of Referees shall not be invalid merely by reasons of the absence of a member.

### **EXCESS PROFITS DOUBLE TAXATION (INDIA AND ADEN) RULES.**

*Notification No. 4 dated the 25th April 1942.*

In exercise of the powers conferred by sub-section (1) of Section II of the Excess Profits Tax Act, 1940 (XV of 1940), the Central Government is pleased to make the following rules for the granting of relief in cases where, in respect of any business, excess profits tax has been paid under that Act and excess profits tax has been paid in Aden :—

1. These rules may be cited as the Excess Profits Double Taxation (India and Aden) Rules.

2. In these Rules, the expression—

- (i) “Indian excess profits tax” means any excess profits tax payable in accordance with the provisions of the Excess Profits Tax Act, 1940.
- (ii) “Aden excess profits tax” means any excess profits tax payable under the law in force in Aden.
- (iii) “chargeable accounting period” has in British India the meaning assigned to it in sub-section (6) of Section 2 of the Excess Profits Tax Act, 1940, and in Aden the meaning assigned to it in Section 18 of the Excess Profits Tax Ordinance, 1941 (Aden Ordinance No. 8 of 1941).

3. Any reference in these Rules to the lower of the two rates shall where the rates are equal, be construed as a reference to either of those rates.

4. These Rules shall have effect in respect of Indian excess profits tax charged for any chargeable accounting period in respect of which under the law in force in Aden relief is to be given in respect of the payment of Indian excess profits tax.

5. If the person carrying on a business in any chargeable accounting period proves to the satisfaction of the Excess Profits Tax Officer, that he has paid in respect of any profits of the business in that period Indian excess profits tax and that he has also paid, in respect of those profits, Aden excess profits tax—

- (i) there shall be computed the amounts of excess profits tax which would be payable in British India and Aden respectively, if excess profits tax in the other country were disregarded except in computing capital ;
- (ii) the amount of relief to be given in British India shall be the same proportion of the lesser of the amount so computed as the amount so computed for British India bears to the sum of the two amounts so computed ;
- (iii) if the amount so computed either for British India or for Aden is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason), the amount so computed shall be recalculated and the relief in British India revised accordingly.

6. Where the chargeable accounting periods differ, in British India and Aden the tax chargeable for which periods shall be apportioned on a time basis to co-terminous periods as hereinafter defined, and relief shall be allowed under these rules for those periods.

For this purpose, except so far as the Government of India and Government of Aden otherwise agree—

- (a) the first of the co-terminous periods shall commence on the first day on which double taxation commenced, and, each succeeding co-terminous period shall commence at the expiration of the period immediately preceding, and
- (b) each of such co-terminous periods shall end at the end of the chargeable accounting period within which it commences, and, if the chargeable accounting periods differ for the purpose of the excess profits tax of the two countries, then at the end of that one of the chargeable accounting periods that ends first.

7. For the purpose of these Rules the liability to excess profits tax of a principal company of a group of interconnected companies shall be taken to be the liability of that company in respect of its own business only.

Where, however, excess profits tax payable in respect of the business carried on by a subsidiary company is assessed on the principal company, relief shall be allowed to the subsidiary company as if the excess profits tax liability attributable to the business of the subsidiary company were separately assessed upon that company.

8. Every application for a refund of excess profits tax under these rules shall be made to the Excess Profits Tax Officer of the district or circle in which the applicant is chargeable to excess profits tax. Such application may be presented by applicant in person or by duly authorised agent or may be sent by post, and shall be in the form prescribed in rule 15 of the Excess Profits Tax Rules, 1940.

## EXCESS PROFITS DOUBLE TAXATION [INDIA & CEYLON) RULES.

*Notification No. 6 dated the 5th September 1942.*

In exercise of the powers conferred by sub-section (1) of Section II of the Excess Profits Tax Act, 1940 (XV of 1940), the Central Government is pleased to make the following rules for the granting of relief in cases where, in respect of any profits of any business, excess profits tax has \* been paid under that Act and excess profits duty has been paid under that Act and excess profits duty has been paid in Ceylon :—

1. These rules may be cited as the Excess Profits Double Taxation (India and Ceylon) Rules.

2. In these rules the expression—

(i) “excess profits tax”,

(a) so far as British India is concerned means any excess profits tax payable in accordance with the provisions of the Excess Profits Tax Act, 1940.

- (b) so far as Ceylon is concerned means any excess profits duty payable in accordance with the law in force in Ceylon ;
- (ii) " Chargeable Accounting Period " has in British India the meaning assigned to it in subsection (6) of Section 2 of the Excess Profits Tax Act, 1940, and in Ceylon the meaning assigned to the expression " accounting period " in Section 2 of the Excess Profits Duty Ordinance, 1941 (Ceylon Ordinance, No. 38 of 1941)

3. Any reference in these rules to the lower of the two rates shall, where the rates are equal, be construed as a reference to either of these rates.

4. These rules shall have effect in respect of which under the law in force in Ceylon relief is to be given in respect of the payment of Indian excess profits tax.

5. If the person carrying on a business in any chargeable accounting period proves to the satisfaction of the Excess Profits Tax Officer that he has paid in respect of any profits of the business in that period, Indian excess profits tax and that he has also paid, in respect of those profits, Ceylon excess profits tax :—

- (i) there shall be computed the amount of excess profits tax which would be payable in British India and Ceylon respectively, if excess profits tax in the other country were disregarded except in computing capital ;
- (ii) the amount of relief to be given in British India shall be the same proportion of the lesser of the amounts so computed as the amount so computed as for British India bears to the sum of the two amounts so computed ;
- (iii) if the amount so computed either for British India or for Ceylon is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason), the amount so computed shall be recalculated and the relief in British India revised accordingly.

6. Where the chargeable accounting periods differ in British India and Ceylon the tax chargeable for such periods shall be apportioned on a time basis to co-terminous periods as hereinafter defined, and relief shall be allowed under these rules for those periods.

For this purpose, except so far as the Government of India and the Government of Ceylon otherwise agree :—

- (a) the first of the co-terminous periods shall commence on the first day on which double taxation commenced, and each succeeding co-terminous period shall commence at the expiration of the period immediately preceding ; and
- (b) each of such co-terminous periods shall end, at the end of the chargeable accounting period within which it commences, and, if the chargeable accounting periods differ for the purposes of the excess profits tax of the two countries, then at the end of that one of the chargeable accounting periods that ends first.

7. For the purposes of these rules the liability to excess profits tax of a principal company of a group of interconnected companies shall be taken to be the liability of that company in respect of its own business only.

Where, however, excess profits tax payable in respect of the business carried on by a subsidiary company is assessed on the principal company, relief shall be allowed to the subsidiary company as if the excess profits liability attributable to the business of the subsidiary company were separately assessed upon that company.

8. Every application for a refund of excess profits tax under these rules shall be made to the Excess Profits Tax Officer of the district or circle in which the applicant is chargeable to excess profits tax. Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by the post, and shall be in the form prescribed in Rule 15 of the Excess Profits Tax Rules, 1940.

### **EXCESS PROFITS DOUBLE TAXATION (INDIA AND COCHIN) RULES.**

*Notification No. 9 dated the 27th November 1943.*

In exercise of the powers conferred by sub-section (1) of section II of the Excess Profits Tax Act, 1940 (XV of 1940) the Central Government is pleased to make the following rules for the granting of relief in cases where, in respect of any profits of any business, excess profits tax has been paid under that Act and excess profits tax has also been paid in Cochin :—

1. These rules may be cited as the Excess Profits Double Taxation (India and Cochin) Rules.

2. In these Rules, the expression —

- (i) "Indian excess profits tax " means any excess profits tax payable in accordance with the provisions of the Excess Profits Tax Act, 1940 :
- (ii) "Cochin excess profits tax" means any excess profits tax payable under the law in force in Cochin ;
- (iii) "Chargeable accounting period" has in British India the meaning assigned to it in sub-section (6) of Section 2 of the Excess Profits Tax Act, 1940, and in Cochin the meaning assigned to it in clause (4) of Section 2 of the Excess Profits Tax Act.

3. Any reference in these Rules to the lower of the two rates shall, where the rates are equal, be construed as a reference to either of these rates.

4. These Rules shall effect in respect of Indian excess profits tax charged for any chargeable accounting period in respect of which under the law in force in Cochin relief is to be given in respect of the payment of Indian excess profits tax.

5. If the person carrying on a business in any chargeable accounting period proves to the satisfaction of the Excess Profits Tax Officer that he has paid in respect of any profits of the business in at period, Indian excess profits tax and that he has also paid, in

respect of those profits, Cochin excess profits tax—

- (i) there shall be computed the amounts of excess profits tax which would be payable in British India and Cochin respectively, if excess profits tax in the other country were disregarded except in computing capital ;
- (ii) the amount of relief to be given in British India shall be the same proportion of the lesser of the amounts so computed as the amount so computed for British India bears to the sum of the two amounts so computed ;
- (iii) if the amount so computed either for British India or for Cochin is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason), the amount so computed shall be recalculated and the relief in British India revised accordingly.

6. Where the chargeable accounting periods differ in British India and Cochin the tax chargeable for such periods shall be apportioned on a time basis to co-terminous periods as hereinafter defined, and relief shall be allowed under these rules for those periods.

For this purpose, except so far as the Government of India and the Government of Cochin otherwise agree—

- (a) the first of the co-terminous periods shall commence on the first day on which double taxation commenced, and, each succeeding co-terminous period shall commence at the expiration of the period immediately preceeding ; and
- (b) each of such co-terminous periods shall end at the end of the chargeable accounting period within which it commences, and, if the chargeable accounting periods differ for the purposes of the excess profits tax of the two countries, then at the end of that one of the chargeable accounting periods that ends first.

7. For the purposes of these Rules the liability to excess profits tax of a principal company of a group of interconnected companies shall be taken to be the liability of that company in respect of its own business only.

Where, however, excess profits tax payable in respect of the business carried on by a subsidiary company is assessed on the principal company, relief shall be allowed to the subsidiary company as if the excess profits tax liability attributable to the business of the subsidiary company were separately assessed upon that company.

8. Every application for a refund of excess profits tax under these rules shall be made to the Excess Profits Tax Officer of the district or circle in which the applicant is chargeable to excess profits tax. Such application may be presented by the applicant in person or duly authorised agent or may be sent by post, and shall be in the form prescribed in rule 15 of the Excess Profits Tax Rules, 1940.



## APPENDIX

### THE INDIAN FINANCE ACT, 1946

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, British India, to fix maximum rates of postage under the Indian Post Office Act, 1898 (VI of 1898), to continue, subject to certain modifications for a further period of one year the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942 (XII of 1942), to alter the duty of customs on cinematograph films, raw cotton and silver, to withdraw the duty of customs on raw cotton levied under the Cotton Fund Ordinance, 1942 (VIII of 1942), to impose a duty of customs on gold, to alter the duty of customs and the duty of excise on betelnuts, motor spirit, kerosene and mineral oils, to fix rates of income-tax and super-tax, and to make certain provisions relating to income-tax, super-tax and excess profits tax ;

It is hereby enacted as follows :—

1. **Short title and extent.**—(1) This Act may be called the Indian Finance Act, 1946.

(2) It extends to the whole of British India.

2. **Fixation of salt duty.**—The duty on salt manufactured in, or imported by land into, British India shall, for the year beginning on the 1st day of April 1946, be at the rate of one rupee and nine annas per standard maund.

3. **Indian postage rates.**—For the year beginning on the 1st day of April 1946, the Schedule contained in the First Schedule to the Indian Finance Act, 1945, shall again be inserted in the Indian Post Office Act, 1898 (VI of 1898), as the First Schedule to that Act.

4. **Amendment of section 4, Indian Finance Act, 1945.**—(1) To sub-section (4) of section 4 of the Indian Finance Act, 1945, following shall be added, namely :—

“or, after the 28th day of February 1946, on kerosene mineral oils, comprised in Items Nos. 27 (4) and 27 (5) of the said Schedule.”

(2) The provisions of this section shall be deemed to have come into force on the 28th day of February 1946.

5. **Continuation of, and enhancement of, additional duties of customs imposed by section 6, Act XII of 1942.**—(1) The additional duties of customs on certain goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934, (XXXII of 1934), or under the said Schedule read with any notification of the Central Government for the time being in force imposed up to the 31st day of March 1943 by section 6 of the Indian Finance Act 1942, and continued, subject to certain modifications up to the 31st day of March 1946, by section 4 of the Indian Finance Act, 1945, as amended by section 4 of this Act, shall continue to



be levied and collected as provided in the said section 6 up to the 31st day of March 1947, subject to the aforesaid modifications and to the further modifications contained in sub-section (2).

(2) The additional duty to be levied and collected under sub-section (1) shall be one-half instead of one-fifth of the amount of the duty of customs specified in the First Schedule to the Indian Tariff Act, 1934, in the case of wines, comprised in Item No. 22 (3) of the said Schedule and no such additional duty shall be levied or collected on—

(a) betelnuts, comprised in Item No. 9 (5),

(b) cinematograph films, not exposed and exposed, comprised in Items Nos. 29 and 29 (1),

(c) raw cotton, comprised in Item No. 46 (3),

(d) silver bullion and silver sheets and plates which have undergone no process of manufacture subsequent to rolling, and silver coin, not otherwise specified, comprised in Items Nos. 61 (2) and 62 (1),

(e) gold bullion and gold sheets and plates which have undergone no process of manufacture subsequent to rolling, and gold coin, comprised in items Nos. 61 (3) and 62 (2), of the said Schedule

**6. Imposition and alteration of certain duties of customs.—**In the First Schedule to the Indian Tariff Act, 1934 (XXXII of, 1934)—

(a) in Item No. 9 (5), for the entries in the fourth and sixth columns, the entries “Five annas per lb.” and “Four annas and six pies per lb.” shall be respectively substituted ;

(b) in Item No. 29, for the entry in the fourth column, the entry “Three pies per linear foot” shall be substituted ;

(c) in Item No. 29 (1), for the entry in the fourth column the entry “Four annas per linear foot” shall be substituted ;

(d) in Item No. 46 (3), for the entry in the fourth column the entry “Two annas per lb.” shall be substituted ;

(e) in Items Nos. 61 (2) and 62 (1), in the fourth column, for the word “Three” the word “eight” shall be substituted ;

(f) in Items Nos. 61 (3) and 62 (2),—

(i) in the third column the word “Revenue” shall be inserted, and

(ii) for the entry in the fourth column, the following entry shall be substituted, namely :—

“Rs. 25 per tola of 180 grains fine.”

**7. Alteration of duty of customs on kerosene and mineral oils.—**In the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), in Items Nos. 27 (4) and 27 (5), in the fourth column, the words ‘and nine pies’ shall be omitted.

**8. Alteration of duty of excise on motor spirit.—**(1) In the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), in the Item No. 4, for the word “Fifteen” the word “Twelve” shall be substituted.

(2) The provisions of this section shall be deemed to have come into force on the 1st day of March 1946.

**9. Alteration of duty of excise on betelnuts.**—In the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), in Item No. 12, for the words “Two annas” the words “One anna” shall be substituted.

**10. Repeal of Ordinance VIII of 1942.**—The Cotton Fund Ordinance, 1942 is hereby repealed :

Provided that the repeal of the said Ordinance shall not prejudice the power of the Central Government to utilise the balance at the credit of the fund established thereunder for the purposes set out in section 3 of that Ordinance.

**11. Income-tax and super-tax.**—(1) Subject to the provisions of sub-sections (3), (4) (5) (6) and (7).—

(a) income-tax for the year beginning on the 1st day of April 1946 shall be charged at the rates specified in part I of the Schedule, and

(b) rates of super-tax for the year beginning on the 1st day of April 1946 shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the Schedule.

(2) In making any assessment for the year ending on the 31st day of March 1947, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Indian Income-tax Act, 1922, an amount equal to—

(i) one-tenth of the earned income chargeable under the head “Salaries” which is included in his total income, subject to a maximum of two thousand rupees, plus

(ii) one-fifth of the earned income other than the income chargeable under the head “Schedule” which is included in his total income :

Provided that the aggregate amount to be deducted under this sub-section shall not in any case exceed four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March 1947,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries,” as reduced by the deduction for earned income” appropriate thereto, or any income chargeable under the head “Interest on Securities,” or any income from dividends in respect of which he is deemed under section 49-B of the Indian Income-tax Act, 1922 to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1945, on his total income the same proportion as the amount of such inclusion bears to his total income;

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” in which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax

Act, 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1945, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March 1947, where the total income of an assessee consist partly of earned income and partly of unearned income the super-tax payable by him shall be—

(i) on that part of the earned income chargeable under the head "Salaries to which clause (b) of sub-section (3) applies the amount of super-tax computed in accordance with the provisions of that clause, plus

(ii) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income plus

(iii) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) Where the total income of an assessee referred to in paragraph A of part I of the Schedule does not exceed six thousand rupees and includes any income to which clause (a) of sub section (3) applies, the income-tax payable by the assessee on such inclusion as computed in accordance with the provisions of that clause shall be reduced by an amount representing one rupee for every complete unit of two hundred rupees of such inclusion as reduced by the amount of income, if any, exempt under second proviso to sub-section (1) of section (7), section 15 and sub-section (1) of section 58F, of the Indian Income-tax Act, 1922 :

Provided that the reduction to be made under this sub-section shall not in any case exceed two-fifths of the income-tax otherwise payable on such inclusion :

Provided further that if there is an incomplete unit of such inclusion amounting to one hundred rupees or more, it shall for the purposes of this sub-section be reckoned as a complete unit of two hundred rupees :

(6) In making any assessment for the year ending on the 31st day of March 1947,—

(a) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount computed at the rate of one anna in the rupee on that part of its total income which consists of such inclusions ;

(b) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount

bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942, (XII of 1942), on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(7) In cases to which section 17 of the Indian Income-tax Act, 1922 applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section and in accordance, where applicable, with the provisions of sub-sections (3), (4), (5) and (6) of this section.

(8) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1946, under the sub-section (2) or sub-section (2B) of section 18 of the Indian Income-tax Act, 1922, from any earned income chargeable under the head "Salaries," the estimated total income of the assessee under the head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one fifth of such earned income but not exceeding in any case four thousand rupees.

(9) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income tax Act, 1922, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

(10) If any provision is made in the Indian Income-tax Act 1922, for the allowance of expenditure on scientific research related to the business carried on by an assessee, then any such expenditure incurred by him in the previous year for the assessment for the year ending on the 31st day of March 1946 shall, for the purposes of that provision and in accordance, therewith, be deemed to be expenditure incurred in the previous year for the assessment for the year ending to the 31st day of March 1947, and shall be added to the amount of such expenditure, if any, in that previous year.

(11) Any sum being excess profits tax repaid in respect of any chargeable accounting period under the provisions of section 10 of the Indian Finance Act, 1942, or of section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), shall be deemed to be income for the purposes of the Indian Income-tax Act, 1922, and shall notwithstanding the provisions of section 34 of that Act, be treated as income of the previous year which constitutes or includes the charges able accounting period in respect of which the said sum is repayable ;

Provided that any such sum repaid in respect of any profits which are also assessable to excess profits tax under the law in force in the United Kingdom shall be treated for the purpose of assessment to income-tax and super-tax, as income of the previous year during which the repayment is made.

(12) The Income-tax Officer shall calculate the amount of income-tax and super-tax payable in respect of each sum referred to in sub-section (11), and such amount shall be deducted from the said sum at the time that it is repaid, and where the regular assessment proceedings for the appropriate assessment year are not complete, the

tax so deducted shall be treated as a payment of income-tax or super-tax, as the case may be, for the purposes of sub-section (5) of section 18 of the Indian Income-tax Act, 1922.

(13) Any person objecting to the amount of a deduction made under sub-section (12) may appeal to the Appellate Assistant Commissioner within thirty days of the receipt of the repayment order, and the provisions of sections 30, 31 and 33 of the Indian Income-tax Act, 1922, shall apply as if such appeal were an appeal under the first-mentioned section.

Where under the provisions of sub-section (2) of section 12 of the Excess Profits Tax Act, 1940 (XV of 1940) excess profits tax payable under the law in force in the United Kingdom has been deducted in computing for the purposes of income-tax and super-tax the profits and gains of any business, the amount of any repayment under sub-section (1) of section 28 of the Finance Act, 1941 (4 & 5 Geo. 6, c. 30), as amended by section 37 of the Finance Act, 1942 (5 and 6, Geo. 6, c. 21) in respect of those profits, shall be deemed to be income for the purposes of the Indian Income tax Act, 1922, and shall for the purposes of the assessment to income-tax and super-tax, be treated, as income of the previous year during which the repayment is made.

**12 Excess profits tax.**—If any provision is made in clause (v) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922), to allow in respect of depreciation a further sum which is not deductible in determining the written down value, then such sum shall not be included in the allowances made in computing profits for the purposes of the Excess Profits Tax Act, 1940 (XV of 1940).

**13. Amendment of section 10, Act XII of 1942.**—(1) To sub-section (1) of section 10 of the Indian Finance Act, 1942, the following further proviso shall be added namely :—

“Provided further that no such further sum herein referred to shall be deposited with the Central Government after the 28th day of February 1946.”

(2) The provisions of this section shall be deemed to have come into force on the 28th day of February 1946.

## THE SCHEDULE

(See section 11)

### PART I

#### Rates of Income-tax

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate
1. On the first Rs. 1,500 of total income—	Nil.
2. On the next Rs. 3,500 of total income—	One anna in the rupee.
3. On the next Rs. 5,000 of total income—	Two annas in the rupee.
4. On the next Rs. 5,000 of total income—	Three and a half annas in the rupee.

5. On the balance of total income—Five annas in the rupee. provided that—

(i) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 2,000.

(ii) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds Rs. 2,000 ;

(iii) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(a) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 2,000 the same proportion as such reduced total income bears to the unreduced total income, or

(b) the income-tax payable on the income so reduced at the rates specified in this Schedule, whichever is less.

B.—In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

Rate

On the whole of total income.....Five annas in the rupee.

## PART II

### Rates of super-tax

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or paragraph C or paragraph D of this Part applies—

	Rate if income wholly earned	Rate if income wholly unearned
1. On the first Rs. 25,000 of total income	...Nil	
2. On the next Rs. 10,000 of total income	...Two annas in the rupee.	Three annas in the rupee.
3. On the next Rs. 10,000 of total income	...Three annas in the rupee.	Four annas in the rupee.
4. On the next Rs. 15,000 of total income	...Four annas in the rupee.	Five annas in the rupee.
5. On the next Rs. 20,000 of total income	...Five annas in the rupee.	Six annas in the rupee.
6. On the next Rs. 30,000 of total income	...Six annas in the rupee.	Seven annas in the rupee.
7. On the next Rs. 40,000 of total income	...Seven annas in the rupee.	Eight annas in the rupee.
8. On the next Rs. 50,000 of total income	...Eight annas in the rupee.	Nine annas in the rupee.
9. On the next Rs. 50,000 of total income	...Nine annas in the rupee.	Nine annas in the rupee.
10. On the next Rs. 1,00,000 of total income	...Nine and a half annas in the rupee.	Ten annas in the rupee.
11. On the next Rs. 1,50,000 of total income	...Ten annas in the rupee.	Ten and a half annas in the rupee.
12. On the balance of total income	...Ten and half annas in the rupee.	Ten and a half annas in the rupee.



**B.—In the case of every local authority.**

**Rate.**

On the whole of total income.....One anna in the rupee.

**C.—In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of co-operative societies—**

**Rate**

1. On the first Rs. 25,000 of total income.....Nil.

2. On the balance of total income.....One anna in the rupee.

**D.—In the case of every company—**

**Rate**

On the whole total income.....One anna in the rupee,  
and in addition, in respect of that part of the total income (as reduced by the amount of dividends payable at a fixed rate) which does not exceed the amount of dividends, not being dividends payable at a fixed rate, declared in British India in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March 1947,—

on the amount by which such part—

**Rate**

- |  |                           |
|--|---------------------------|
| (a) exceeds 30 per cent., but does not exceed 40 per cent. of the total income as so reduced.  | Two annas in the rupee.   |
| (b) exceeds 40 per cent., but does not exceed 45 per cent., of total income as so reduced.     | Three annas in the rupee  |
| (c) exceeds 45 per cent., but does not exceed 50 per cent., of the total income as so reduced. | Four annas in the rupee   |
| (d) exceeds 50 per cent., but does not exceed 55 per cent., of the total income as so reduced. | Five annas in the rupee.  |
| (e) exceeds 55 per cent., but does not exceed 60 per cent., of the total income as so reduced. | Six annas in the rupee    |
| (f) exceeds 60 per cent. of the total income as so reduced.                                    | Seven annas in the rupee. |

**Provided that—**

- (i) no additional super-tax shall be payable where such part is less than or equal to, five per cent. on the capital of the company.
- (ii) where such part is more than five per cent. on the capital of the company, the additional super-tax payable shall be reduced by the amount of additional super-tax which would, but for the provisions of clause (i) of this proviso, have been payable had such part been equal to five per cent. on the capital of the company;
- (iii) where any dividends (not being dividends payable at a fixed rate) have been declared before the 1st day of March 1946 in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March 1947, and the amount of super-tax computed at the rates set out in this paragraph exceeds the amount 0.



super-tax which would be payable by the company at the rate specified in the Indian Finance Act, 1945, such proportion of the amount of super-tax computed under this paragraph as the amount of dividends declared before the 1st day of March 1946 bears to the total amount of dividends declared in respect of the said previous year (not being dividends payable at a fixed rate) shall be so reduced as not to exceed the same proportion of the super-tax computed at the rate specified in the Indian Finance Act, 1945.

- (iv) the additional super-tax shall be payable only by a company in which the public are substantially interested within the meaning of the *Explanation* to sub-section (1) of section 23A of the Indian Income-tax Act, 1922, or a subsidiary company of such a company where the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.

*Explanation.*—For the purposes of this paragraph,—

- (a) the expression “capital of the company” shall be deemed to mean the paid-up share capital at the beginning of the previous year for the assessment for the year ending on the 31st day of March 1947 (other than capital entitled to a dividend at a fixed rate) plus any reserves other than depreciation reserves and reserves for bad or doubtful debts at the same date as diminished by the amount on deposit on the same date with the Central Government under section 10 of the Indian Finance Act, 1942, or section 2 of the Excess Profits Tax Ordinance, 1943;
- (b) the expression “dividend” shall be deemed to include any distribution included in the expression “dividend” as defined in clause (6A) of section 2 of the Indian Income-tax Act, 1922, and any such distribution made during the year ending on the 31st day of March 1947 shall be deemed to have been made in respect of the whole or part of the previous year.
- (c) where any portion of the profits and gains of a company is not included in its total income, by reason of such portion being exempt from tax under any provision of the Indian Income-tax Act, 1922, the capital of the company, the total amount of dividends and the amount of dividends payable at a fixed rate shall each be deemed to be the proportion thereof that the total income of the company bears to its total profits and gains

ACT No. VIII OF 1946,

**The Indian Income-tax (Amendment) Act, 1946.**

[Recd. G. G.'s assent on 18th April, 1946]

*An Act further to amend the Indian Income-tax Act, 1922.*

Whereas it is expedient further to amend the Indian Income-tax Act, 1922 (XI of 1922), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

Short title and  
commencement.

1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1946.

(2) It shall come into force on such date as the Central Government may by notification in the official Gazette appoint.

Amendment of  
section 4, Act XI  
of 1922.

(2) In sub-section (3) of section 4 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), after clause (xi) the following clause shall be inserted, namely :—

“(xii) Any income chargeable under the head “Income from property” in respect of a building the erection of which is begun and completed between the 1st day of April 1946 and the 31st day of March 1943 (both dates inclusive), for a period of two years from the date of such completion.”

Amendment of  
section 10, Act XI  
of 1922.

3. In section 10 of the said Act,—

(a) in sub-section (2),—

(i) in clause (vi), after the words “cases be prescribed” where they occur for the second time, the following shall be inserted namely :—

“and where the buildings have been newly erected, or the machinery or plant being new has been installed, after the 31st day of March 1945, a further sum (which shall however not be deductible in determining the written down value for the purposes of this clause) in respect of the year of erection or installation equivalent,—

(a) in the case of buildings the erection of which is begun and completed between the 1st day of April 1946 and the 31st day of March 1943 (both dates inclusive), to fifteen per cent. of the cost thereof to the assessee ;

(b) in the case of other buildings, to ten per cent. of the cost thereof to the assessee ;

(c) in the case of machinery or plant, to twenty per cent. of the cost thereof to the assessee ;”

(ii) for clause (vii) the following clause shall be substituted, namely :—

“(vii) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount

for which the building, machinery or plant, as the case may be, is actually sold or its scrap value ;

Provided that such amount is actually written off in the books of the assessee ;

Provided further that where the amount for which any such building, machinery or plant is sold exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place ;

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant which has been discarded or demolished or destroyed, and the amount of such moneys does not exceed the written down value, the amount allowable under this clause shall be the amount, if any, by which the difference between the written down value and the scrap value exceeds the amount of such moneys ;

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant as aforesaid, and the amount of such money exceeds the difference between the written down value and the scrap value no amount shall be allowable under this clause and so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be profits of the previous year in which such moneys were received ;

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the first proviso to sub-section (5), shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of the business, profession or vocation ;"

(iii) clause (xii) shall be renumbered as clause (xv), and after clause (xi) the following clause shall be inserted, namely :—

(xii) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business ;

(xiii) any sum paid to a scientific research association having as its objects the undertaking of scientific research related to the class of business carried on, and any sum paid to a university, college or other institution to be used for such scientific research ;

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority ;

(xiv) in respect of any expenditure of a capital nature on scientific research related to the business, an allowance for each of the five consecutive previous years beginning with the year in which the expenditure was incurred, or where the expenditure was incurred prior to the commencement of the business, for each of the five consecutive previous years beginning with the year in which the business was commenced, equal to one-fifth of such expenditure :

Provided that no allowance shall be made for any expenditure

incurred more than three years before the commencement of the business :

Provided further that—

(a) where an asset representing scientific research expenditure of a capital nature ceases to be used for scientific research related to such business—

(i) no allowance shall be made in respect of any previous year after the previous year in which the cessation takes place, and

(ii) if the aggregate of the amounts allowed under this clause added to the value of the asset immediately before the cessation is less than the said expenditure, there shall also be allowed in respect of the previous year in which the cessation takes place an additional deduction equal to the difference ;

(b) where such asset is sold without having been used for other purposes, the sale proceeds shall be taken to be the value of the asset immediately before the cessation, and if an additional allowance or a greater additional allowance would have been made in respect of the previous year in which the cessation occurred on the basis of that value an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be made in respect of the previous year in which the sale occurs :

(c) where the proceeds of the sale plus the total amount of the allowance made under this clause exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treated as a receipt of the business accruing at the time of the sale ;

(d) where a deduction is allowed for any previous year under this clause in respect of expenditure represented wholly or partly by any asset, no deduction shall be allowed under clause (vi) or clause (vii) for the same previous year in respect of that asset ;

(e) where an asset is used in the business after it ceases to be used for scientific research related to that business, and a claim for an allowance under clause (vi) or clause (vii) is made in respect of that asset, the actual cost to the assessee of the asset shall be treated as reduced by the amount of any deductions allowed under this clause ;

(f) clause (b) of the proviso to clause (vi) shall apply in relation to deductions allowable under this clause as it applies in relation to deductions allowable in respect of depreciation.

(g) if any question arises under clause (xii), clause (xiii) or this clause as to whether, and if so to what extent, any activity constitutes or constituted or any asset is or was being used for, scientific research the Central Board of Revenue shall refer the question to the prescribed authority, whose decision shall be final ;

*Explanation.*—In clause (xii), clause (xiii) and this clause—

(i) “ scientific research ” means any activities in the fields of natural or applied science for the extension of knowledge ;

(ii) references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but, save as aforesaid, include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research ;

(iii) references to scientific research related to a business or class of business include —

(a) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all business of that class ;

(b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, business of that class ;”

(b) in sub-section (5) after the word “Provided” in the proviso the word “further” shall be inserted, and before the said proviso the following proviso shall be inserted, namely :—

“ Provided that in the case of a building previously the property of the assessee and brought into use for the purposes of the business, profession or vocation after the 28th day of February 1946, ‘ written down value’ means the actual cost to the assessee reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee and had the provisions of this Act relating to the allowance for depreciation been in force on and from the date of acquisition.”

Amendment of section 12, Act XI of 1922. 4. In sub-section 4 of section 12 of the said Act, for the brackets, figures and word “(v) and (vi),” the brackets, figures and words “(v), (vi) and (vii)” shall be substituted,

Amendment of section 41, Act XI of 1922. 5. In sub-section (1) of section 41 of the said Act, to the first proviso the following shall be added namely :

“ but, where such persons have no other personal income chargeable under this Act and none of them is an artificial juridical person, as if such income, profits or gains or such part thereof were the total income of an association of persons.”



